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PUBLIC LAWS
OF THE
STATE OF NORTH CAROLINA,

PASSED BY THE
GENERAL ASSEMBLY

AT ITS
SESSION 1871-'72,

BEGUN AND HELD IN THE
CITY OF RALEIGH, ON THE TWENTIETH DAY OF NOVEMBER, 1871.

TO WHICH ARE PREFIXED

A REGISTER OF STATE OFFICERS, MEMBERS OF THE GENERAL ASSEMBLY AND
JUDICIARY, AND A LIST OF COMMISSIONERS OF AFFIDAVITS.

PUBLISHED BY AUTHORITY.

RALEIGH:
THEO. N. RAMSAY, STATE PRINTER AND BINDER
1872.



REGISTER OF STATE OFFICERS,
MEMBERS OF THE GENERAL ASSEMBLY,

AND THE

JUDICIARY,
FOR THE YEAR 1872.

OFFICIAL REGISTER

FOR THE

YEAR 1872.

STATE GOVERNMENT.

TOD R. CALDWELL, Burke County, Governor.
E. J. WARREN, Beaufort County, President of the Senate.
H. J. MENNINGER, Craven County, Secretary of State.
HENDERSON ADAMS, Davidson County, Auditor.
D. A. JENKINS, Gaston County, Treasurer,
C. L. HARRIS, Rutherford County, Sup't Public Works.
ALEXANDER McIVER, Mecklenburg County, Sup't Public Instruction.
W. M. SHIPP, Mecklenburg County, Attorney General.

THE JUDICIARY.

SUPREME COURT.

NAMES.	RESIDENCES
RICHMOND M. PEARSON, Chief Justice,	Richmond Hill, Yadkin Co.,
ED. G. READE, Associate Justice,	Roxboro', Person County,
WM. B. RODMAN, Associate Justice,	Washington, Beaufort County,
ROBT. P. DICK, Associate Justice,	Greensboro, Guilford County.
NATHANIEL BOYDEN, Associate Justice,	Salisbury, Rowan County,
W. M. SHIPP, Reporter,	Mecklenburg County.
W. H. BAGLEY, Clerk,	Raleigh, Wake County.
DAVID A. WICKER, Marshal,	Raleigh, Wake County.

SUPERIOR COURTS.

DISTRICT.	NAMES.	RESIDENCE.
1	CHARLES C. POOL,.....	Elizabeth City,
2	W. A. MOORE,.....	Edenton,
3	W. J. CLARKE,.....	Newbern,
4	DANIEL L. RUSSELL,.....	Wilmington,
5	RALPH P. BUXTON,.....	Fayetteville,
6	SAMUEL W. WATTS,.....	Franklinton,
7	ALBION W. TOURGEE,.....	Greensboro',
8	JOHN M. CLOUD,.....	Rockford, Surry County.
9	GEO. W. LOGAN,.....	Rutherfordton,
10	ANDERSON MITCHELL,.....	Statesville,
11	JAMES L. HENRY,.....	Asheville,
12	RILEY H. CANNON,.....	Franklin, Macon County.

DISTRICT SOLICITORS.

1	J. W. ALBERTSON,.....	Hertford,
2	JOSEPH J. MARTIN,.....	Williamston,
3	JOHN V. SHERRARD,.....	Goldsboro',
4	JOHN A. RICHARDSON,.....	Elizabethtown,
5	NEILL MCKAY,.....	Lillington,
6	WILLIAM R. COX,.....	Raleigh,
7	J. R. BULLA,.....	Asheboro',
8	A. H. JOYCE,.....	Danbury,
9	W. P. BYNUM,.....	Lincolnton,
10	W. P. CALDWELL,.....	Statesville,
11	VIRGIL S. LUSK,.....	Asheville,
12	R. L. HENRY,.....	Franklin.

GENERAL ASSEMBLY.

Convenes in the City of Raleigh on the third Monday in November.

SENATE.

HON. E. J. WARREN, President.

DIST.	COUNTIES.	NAMES OF SENATORS.	RESIDENCES.
1	Currituck, Camden, Pasquotank, Perquimans, Chowan and Gates,	Rufus K. Speed, Jas. C. Skinner,	Edenton, Chowan County, N. C.
2	Martin, Washington and Tyrrell,	L. C. Lathan, E. J. Warren,	Plymouth, Washington Washington, Beaufort
3	Beaufort and Hyde,	Jesse Flythe,	Jackson, Northampton
4	Northampton,	J. W. Beasley,	Colerain, Bertie,
5	Bertie and Hertford,	Henry Eppes,	Halifax C. II., Halifax
6	Halifax,	N. B. Bellamy,	Tarboro', Edgecombe
7	Edgecombe,	Jacob McCotter,	Johnson's Mills, Pitt
8	Pitt,	Lawrence F. Battle,	Nashville, Nash
9	Nash and Wilson,	L. J. Moore, R. F. Lehman,	Newbern, Craven " "
10	Craven and Carteret,	R. W. King, W. A. Allen,	" "
11	Jones and Lenoir,	Chas. McClammy,	Kenansville, Duplin
12	Duplin and Onslow,	G. W. Price, Jr.,	Wilmington, New Hanover
13	New Hanover and Brunswick,	J. C. Currie,	" "
14	Bladen and Columbus,		Brown Marsh, Bladen

SENATE—Continued.

DIST.	COUNTIES.	SENATORS.	RESIDENCES.
15	Robeson,.....	R. M. Norment,.....	Lumberton, Robeson
16	Cumberland, Harnett and Sampson,.....	W. C. Troy,.....	Fayetteville, Cumberland
17	Johnston,.....	Dr. C. T. Murphy,.....	Clinton, Sampson
18	Greene and Wayne,.....	L. R. Waddell,.....	Smithfield, Johnston
19	Franklin and Wake,.....	C. H. Brogden,.....	Goldsboro', Wayne
20	Warren,.....	L. P. Olds,.....	Raleigh, Wake
21	Granville and Person,.....	P. B. Hawkins,.....	Louisburg, Franklin
22	Orange,.....	John A. Hyman,.....	Warrenton, Warren
23	Chatham,.....	L. C. Edwards,.....	Oxford, Granville
24	Caswell,.....	S. C. Barnett,.....	Roxboro', Person
25	Rockingham,.....	John W. Graham,.....	Hillsboro', Orange
26	Alamance and Guilford,.....	Gaston Albright,.....	Mud Lick, Chatham
27	Randolph and Montgomery,.....	L. Brown,.....	Yanceyville, Caswell,
28	Moore and Richmond,.....	J. T. Morehead,.....	Leaksville, Rockingham
29	Anson and Union,.....	John A. Gilmer,.....	Greensboro', Guilford
30	Mecklenburg,.....	James A. Graham,.....	Graham, Alamance
31	Cabarrus and Stanly,.....	Dr. J. M. Worth,.....	Ashboro', Randolph
32	Davidson,.....	R. T. Long,.....	Rockingham, Richmond
33	Forsythe and Stokes,.....	A. J. Dargan,.....	Wadesboro', Anson
34	Surry and Yadkin,.....	H. C. Jones,.....	Charlotte, Mecklenburg
35		Valentine Mauney,.....	Albemarle, Stanly
		W. M. Robbins,.....	Salisbury, Rowan
		F. C. Robbins,.....	Lexington, Davidson
		Sterling Adams,.....	Walnut Cove, Stokes
		A. C. Cowles,.....	Yadkinsville, Yadkin

County, N. C.

36	Alexander and Iredell,.....	Romulus Z. Liney,.....	Taylorsville, Alexander	Co., N. C.
37	Catawba, Gaston and Lincoln,.....	E. Crowell,.....	Lincolnton, Lincoln	" "
38	Cleveland, Polk and Rutherford,.....	G. M. Whiteside,.....	Rutherfordton, Rutherford	" "
39	Alleghany, Ashe and Wilkes,.....	C. L. Cook,.....	Wilkesboro', Wilkes	" "
40	Buncombe, Henderson and Transylvania, ..	James H. Merrimon, ..	Asheville, Buncombe	" "
41	Burke, Caldwell and Watauga,.....	W. B. Council,.....	Boon, Watauga	" "
42	Madison, Mitchell, McDowell and Yancey, ..	W. W. Flemming,.....	Marion, McDowell	" "
43	Clay, Cherokee, Haywood, Jackson and Macon,.....	W. L. Love,.....	Franklin, Macon	" "

HOUSE OF REPRESENTATIVES.

THOS. J. JARVIS, Tyrell County, Speaker.

COUNTIES.	NAMES OF MEMBERS.	RESIDENCES.
Alamance,	Col. A. C. McAlister,	Company Shops,
Alleghany,	Robert Gambill,	Gap Civil,
Ashe,	Dr. J. O. Wilcox,	Jefferson,
Alexander,	J. M. Carson,	Taylorsville,
Anson,	Wm. E. Smith,	Morven,
Beaufort,	Thomas Sparrow,	Washington,
Bertie,	P. Robbuis,	Windsor,
Bladen,	A. W. Fisher,	Elizabethtown,
Brunswick,	John A. Brooks,	Little River, S. C.
Buncombe,	A. D. Johnston,	Asheville,
Burke,	J. C. Mills,	Morganton,
Cabarrus,	J. L. Henderson,	Concord,
Caldwell,	Ed. Jones,	Patterson,
Camden,	John L. Chamberlain,	Camden C. H.
Carteret,	L. W. Martin,	Beaufort,
Caswell,	E. A. B. Withers,	Yanceyville,
Catawba,	K. R. B. Houston,	Catawba Station,
Chatham,	R. J. Powell,	Pittsboro',
Cherokee,	John A. Womack,	Pittsboro',
Chowan,	B. K. Dickey,	Murphy,
Clay,	John Page,	Edenton,
Cleveland,	J. S. Anderson,	Fort Hembree,
Cabarrus,	Lee M. McAfee,	Shelby,
	C. C. Gore,	Whiteville,
Craven,	Richard Tucker,	Newbern,
	E. K. Dudley,	Newbern,
	Geo. B. Willis,	Newbern,
Cumberland,	C. W. Broadtoot,	Fayetteville,
Currituck,	J. H. Currie,	Fayetteville,
	J. Woodhouse,	Popular Branch,
Davidson,	Jacob Clinard,	Midway Post Office,
	Jacob T. Brown,	Lexington,
Davie,	Jas. Kelly,	Mocksville,

HOUSE OF REPRESENTATIVES.—(Continued.)

COUNTIES.	NAMES OF MEMBERS.	RESIDENCES.
Duplin,	{ John D. Stanford,	Kenansville,
	{ N. E. Armstrong,	Hallsville,
Edgecombe,	{ R. M. Johnson,	Tarboro',
	{ W. Bunn,	Battleboro',
Forsythe,	{ John P. Nisson,	Salem,
Franklin,	{ John H. Williamson,	Louisburg,
	{ James T. Harris,	Pacific,
Gaston,	{ J. G. Gullick,	South Point,
Gates,	{ Riddick Gatling,	Gatesville,
	{ E. B. Lyon,	Franklinton,
Granville,	{ T. L. Hargrove,	Oxford,
	{ W. H. Reavis,	Henderson,
Greene,	{ B. S. Hardy,	Snow Hill,
Guilford,	{ Jonathan Harris,	Westminster,
	{ S. C. Rankin,	McLeansville,
Halifax,	{ J. J. Goodwyn,	Halifax,
	{ John Bryant,	Halifax,
Harnett,	{ Neill S. Stewart,	Aversboro',
Haywood,	{ W. P. Welch,	Waynesville,
Henderson,	{ W. Brownlow Morris,	Hendersonville,
Hertford,	{ W. Newsom,	Winton,
Hyde,	{ W. H. Lucas,	Lake Landing,
	{ J. H. Hill,	Statesville,
Iredell,	{ Thos. A. Nicholson,	Eagle Mills,
Jackson,	{ T. D. Bryson,	Webster,
Johnston,	{ Jesse Hinant,	Earpboro',
	{ W. H. Joyner,	Boon Hill,
Jones,	{ B. L. Bryan,	Kinston,
Lenoir,	{ W. F. Loftin,	Kinston,
Lincoln,	{ David Kincaid,	Castania Grove,
Macon,	{ J. L. Robinson,	Franklin,
Madison,	{ Nat. Kelsey,	Ivey,
Martin,	{ Geo. A. Gregory,	Hamilton,
McDowell,	{ J. C. Grayson,	Bridgewater,
	{ R. P. Waring,	Charlotte,
Mecklenburg,	{ J. Sol. Reid,	Providence,
	{ S. M. Collis,	Bakersville,
Mitchell,	{ J. G. Morgan,	Sandersville,
Montgomery,	{ Alexander Kelly,	Carthage,
Moore,	{ J. A. Drake,	Hilliardston,
Nash,		

HOUSE OF REPRESENTATIVES.—(Continued.)

COUNTIES.	NAMES OF MEMBERS.	RESIDENCES.
New Hanover	Samuel A. Ashe,	Wilmington.
	J. A. Heaton,	Wilmington.
	G. L. Mabson,	Wilmington.
Northampton,	Samuel N. Buxton,	Jackson,
	Burton H. Jones,	Jackson,
Onslow,	James G. Scott,	Jacksonville.
Orange,	F. N. Strudwick,	Hillsboro',
	C. C. Atwater,	Snipe's Store.
Pasquotank,	Thomas A. Sykes,	Elizabeth City,
Perquimans,	T. E. Darden,	Belvidere,
Person,	H. T. Jordan,	Roxboro',
	B. S. Atkinson,	Greenville,
Pitt,	C. Joyner,	Marlboro',
Polk,	John Garrison,	Columbus,
	Jonathan Lassiter,	Lassiter's Mills,
Randolph,	J. W. Bean,	
Richmond,	Robert Fletcher,	Rockingham,
	Thomas A. McNeill,	Shoe Heel,
Robeson,	H. B. Regan,	Lumberton,
	A. B. Johns,	Leaksville,
Rockingham,	David Settle,	Wentworth,
	W. H. Crawford,	Salisbury,
Rawan,	F. N. Luckey,	Salisbury,
	J. M. Justice,	Ruthertordton,
Sampson,	J. R. Maxwell,	Dismal,
Stanly,	John Furr,	Albemarle,
Stokes,	J. G. H. Mitchell,	Red Shoals,
Surry,	H. C. Hampton,	Mount Airy,
Transylvania,	J. C. Duckworth,	Brevard,
	T. J. Jarvis,	Columbia,
Tyrrell,	C. M. J. McCauley,	Monroe,
	S. F. Phillips,	Raleigh,
Wake,	T. W. Young,	Raleigh,
	W. W. Morgan,	Raleigh,
	Stewart Ellison,	Raleigh.
Warren,	W. M. Cawthorne,	Warrenton,
	Richard Faulkner,	Warrenton,
Washington,	D. C. Guyther,	Plymouth,
Watauga,	W. F. Shull,	Valley Crucis,
Wayne,	D. E. Smith,	Dudley Depot,
	Edwin G. Copeland,	Goldsboro',

HOUSE OF REPRESENTATIVES.—(*Continued.*)

COUNTIES.	NAMES OF MEMBERS.	RESIDENCES.
Wilkes, Wilson, Yadkin, Yancey,	Tyre York, J. W. Dunham, J. G. Marler, C. F. Young,	Trap Hill, Wilson, Yadkinville, Burnsville.

LIST
OF
COMMISSIONERS OF AFFIDAVITS
IN THE
SEVERAL STATES AND TERRITORIES
AND IN THE
DISTRICT OF COLUMBIA,
FOR THE
STATE OF NORTH CAROLINA.

LIST OF COMMISSIONERS OF AFFIDAVITS.

*List of Commissioners of Affidavits in the several States and Territories and in the District of Columbia for the State of North Carolina, appointed since *July 4th, 1868, together with residence, dates of Commission and qualification of each.*

STATE OR TERRITORY.	NAME.	RESIDENCE.	DATE OF APPOINTMENT.	DATE OF QUALIFICATION.
Arkansas,	E. J. Brooks,	Fort Smith,	November 23, 1870,	March 25, 1872.
"	James M. Alexander,	Helena,	February 10, 1871,	March 8, 1871.
California,	C. M. Arnold,	San Diego,	January 18, "	February 6, "
"	N. Proctor Smith,	San Francisco,	June 1, 1869,	November 19, 1869.
"	P. Crittenden,	"	January 5, 1871,	January 20, 1871.
Connecticut,	Frank V. Scudder,	"	August 25, 1871,	November 19, 1871.
"	Julius Twiss,	New Haven,	May 23, 1870,	May 18, 1870.
"	Edward Goodman,	Hartford,	May 23, 1871,	May 26, 1871.
District of Columbia,	Jos. T. K. Blant,	Washington,	August 4, 1869,	November 10, 1869.
"	M. Wallingsford,	"	February 23, 1870,	March 4, 1870.
Florida,	C. B. Graybill,	Jacksonville,	July 17, 1871,	August 3, 1871.
"	Geo. Lewis,	Tallahassee,	October 23, 1871,	November 4, 1871.
"	J. H. Norton,	Jacksonville,	October 24, 1871,	March 12, 1872.
Georgia,	Frank H. Miller,	Augusta,	November 7, "	November 12, 1869.
"	Allen Fort,	Americus,	March 21, 1871,	March 23, 1871.
"	John W. Burroughs,	Savannah,	April 10, "	April 28, "
"	Ralph J. Moses, jr.,	Columbus,	January 25, 1872,	January 29, 1872.
"	Thos. J. Perry,	Rome,	January 25, 1872,	January 29, 1872.

LIST OF COMMISSIONERS OF AFFIDAVITS—(Continued.)

STATE OR TERRITORY.	NAME.	RESIDENCE.	DATE OF APPOINTMENT.	DATE OF QUALIFICATION.
Illinois,	John B. Hicks,	Metropolis,		April 2, 1869,
"	Simon W. King,	Chicago,		June 23, "
"	Phillip A. Hoyné,	"		November 15, "
Louisiana,	James Graham,	New Orleans,		" " " "
"	Edward Barnett,	"		" 30, "
Maine,	James O. Donnell,	Portland,		June 19, "
Maryland,	Herman L. Emmons,	Baltimore,		July 6, "
"	W. M. Lattimer,	"		May 24, "
"	Geo. Philpot,	"		December 14, "
"	H. R. Dulany,	"		" 27, "
Massachusetts,	Chas. B. F. Adams,	Boston,		July 14, "
"	James B. Bell,	"		" 22, "
"	Samuel Jemison,	"	May 13, 1870,	May 27, 1870,
Missouri,	Theodore Papin,	St. Louis,	June 1, 1869,	July 3, 1869,
"	Austin Drake,	"	February 16, 1871,	March 4, 1871,
Mississippi,	E. W. Upshaw,	Holly Springs,	January 1, 1870,	February 7, 1870,
Minnesota,	Cyrus Aldrich,	Minneapolis,	March 31, "	" " " "
"	C. McReeve,	"	March 12, 1872,	April 7, 1870,
North Carolina,	Charles Hibbard,	Newbern,	May 7, 1869,	April 27, 1869.
New Jersey,	Garrett B. Adrain,	New Brunswick,		August 20, "
New York,	Nathaniel Gill,	New York City,		February 16, "
"	Charles H. Hatch,	"	June 1, "	April 19, "

New York,	W. E. Osborn,	Brooklyn,	April	16, 1869,	May	26, 1869,
"	Horace Andrews,	New York City,	May	20, "		
"	Moses B. Maclay,	New York City,	June	1, 1869,	June	29, 1869,
"	David McAdams,	"	"	1, "	July	16, "
"	James M. Slevin,	"	August	18, "	September	13, "
"	Michael Jacobs,	"	April	6, "	May	15, "
"	Henry C. Banks,	"			June	10, "
"	A. C. Anderson,	"			November	16, "
"	G. W. Colles,	"	May	20, "	"	11, 1869,
"	Joseph B. Nones,	"	"	20, "	September	14, "
"	Lotis Hurst,	"	June	14, "	December	7, "
"	Alex. Ostrander,	"	May	20, "	November	11, "
"	Charles I. Bushnel,	"	June	1, "	December	27, "
"	Sigismund Lasar,	"	"	1, "	"	27, "
"	Sylvester Lay,	"			November	25, "
"	Walter S. Poor,	"	March	10, 1871,	March	13, 1871,
"	Alfred B. Smith,	Poughkeepsie,	"	20, 1870,	December	23, "
"	Chas. W. Anderson,	New York City,	April	1, "	April	5, "
"	Watson J. Hildreth,	"	"	6, 1871,	"	12, "
"	Edward E. Burr,	"	February	10, "	May	16, "
"	Jacob DuBois,	"	May	23, "	"	25, "
"	J. Spencer Smith,	"	"	27, "	June	2, "
"	John Bizzell,	"	June	5, 1869,	November	12, 1869,
"	Fred R. Anderson,	"	"	15, "	"	12, "
"	Rufus K. M. Hay,	"			October	10, 1868,
"	Edwin F. Corey, Sr.	"	September	1, 1869,	June	4, 1870,
"	Daniel F. Bible,	"	April	1, 1870,	April	2, "
"	Edwin F. Corey,	"	September	1, 1869,	June	4, "
"	Arthur W. Knapp,	"	February	22, 1870,	February	23, "

LIST OF COMMISSIONERS OF AFFIDAVITS.—(Continued.)

STATE OR TERRITORY.	NAME.	RESIDENCE.	DATE OF APPOINTMENT.	DATE OF QUALIFICATION.
New York,	Joseph T. Brown,		November 25,	1871,
"	J. D. Morrell,		March 13,	" 1872,
"	Thomas Kilvert,		February 12,	1872,
"	C. H. Smith,		December 12,	1871,
	E. Bizzle,		March 12,	1872,
Ohio,	James Wade, jr.,	Cleveland	November	11,
"	J. B. Konklm,	Cincinnati,	April 10,	1869,
"	A. H. McGuffy,	"	June 1,	"
"	Samuel S. Carpenter,	"	June 1,	"
"	Samuel E. Crawford,	"	October 28,	1868,
Pennsylvania,	Kinley J. Turner,	Philadelphia,	June 1,	1869,
"	Joshua Sperring,	"	" 1,	"
"	Charles Chauncey,	"	" 1,	"
"	Edwin Shippin,	"	" 1,	"
"	Theo. D. Rand,	"	May 20,	"
"	Samuel S. Taylor,	"	" 20,	"
"	John McLaren,	Pittsburg,	June 1,	"
"	F. Herbert Janvier,	Philadelphia,	January 6,	1870,
"	Henry Phillips, jr.,	"	December 6,	1869,
"	G. W. Barton,	"	May 20,	1870,
"	Samuel B. Huey,	"	March 5,	"
"	Joseph Frankish,	"	April 25,	"

Pennsylvania,	Judson R. Sprague,	Philadelphia,	July	6,	1871,	July	11,
"	A. Ramsey,	"	October	3,	"	October	7,
"	J. Sparhawk,	"	November	25,	"	November	28,
"	J. P. Diver,	"	November	24,	"	November:	28,
"	C. H. Wrumblhaur,	"	March	12,	1872,	March	12,
"	H. E. Hinduarsh,	"	March	12,	1872,	March	14,
South Carolina,	V. J. Tobias,	Charleston,	June	1,	1869,	November	13,
"	A. B. Horton,	Cheraw,	March	12,	1872,	April	1,
"	Thomas Frost,	Charleston,	February	23,	1870,	May	15,
Tennessee,	Henry P. Woodard,	Memphis,	October	28,	1868,	January	27,
"	Josiah W. Wescott,	"	March	31,	1871,	April	7,
"	James E. Temple,	"	August	25,	1869,	November	13,
"	John C. Reeves,	Summerville,	August	25,	"	December	30,
"	Hudson Carey,	Memphis,	November	12,	"	November	6,
"	Henry F. Dix,	"	August	22,	1871,	August	31,
"	R. D. Johnson,	Galveston County,	June	1,	1869,	November	17,
Texas,	S. B. Ginn,	Norfolk,	May	20,	1869,	May	26,
Virginia,	Alex. Donnan,	Petersburg,	"	20,	"	May	20,
"	John R. Kilby,	Suffolk,	September	10,	"	September	20,
"	Warren G. Elliot,	Norfolk,	May	20,	"	November	16,
"	Frank A. Wilcox,	"	"	3,	"	May	5,
"	T. R. Borland,	"	June	22,	"	November	13,
"	Gilbert Elliott,	Richmond,	September	1,	"	November	11,
"	Thos. W. Upsher,	County of Norfolk,	August	28,	"	December	14,
"	E. R. Hunter,	Richmond,	June	1,	"	November	10,
"	E. M. Garrett,	Norfolk,	September	21,	1871,	October	21,
"	W. B. Martin,	Hampton,	November	29,	1870,	December	6,
"	Geo. M. Peek,	Norfolk,	September	21,	1871,	October	11,
"	Wm. W. Smith,	"	November	29,	1870,	December	6,

STATE OF NORTH CAROLINA,
DEPARTMENT OF STATE,
Raleigh, April 11, 1872.

I, HENRY J. MENNINGER, Secretary of the State of North Carolina, hereby certify that the following contains a true list of the appointments of Commissioners of Affidavits and Probate of Deeds, with the dates of their qualification and places of residence, as recorded in this office.

H. J. MENNINGER, *Secretary of State.*

*All appointments previous to July 4th, 1868, revoked by his Excellency Gov. W. W. Holden.

CAPTIONS
TO THE
PUBLIC LAWS OF NORTH CAROLINA.

CAPTIONS

TO THE

PUBLIC LAWS AND RESOLUTIONS.

SESSION 1871-'72.



	PAGE.	
An act concerning the probate of deeds and the private examination of married women beyond the limits of the State of North Carolina,	1	Captions public laws.
Act to amend the charter of Raleigh and Gaston Railroad Company,	2	
Act concerning the jurisdiction of the Superior Courts,	3	
Act to amend the laws of evidence,	4	
An act to amend an act entitled an act to change the time of holding the Superior Courts of New Hanover county,	4	
An act to change the time of holding the Superior Courts of Alamance county,	5	
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PUBLIC LAWS
OF THE
STATE OF NORTH CAROLINA,

STATE OF NEW YORK

IN SENATE

JANUARY 18, 1887

1887

PUBLIC LAWS

OF THE

STATE OF NORTH CAROLINA,

SESSION 1871-'72.

CHAPTER I.

AN ACT CONCERNING THE PROBATE OF DEEDS AND THE PRIVATE EXAMINATION OF MARRIED WOMEN BEYOND THE LIMITS OF THE STATE OF NORTH CAROLINA.

SECTION 1. *The General Assembly of North Carolina do enact,* That when any deed concerning lands in this state, or power of attorney for the conveyance of the same, or any other instrument whatever, required or allowed to be registered, shall have been executed, and it may be desired to take the acknowledgement or probate thereof out of this state, but within the United States, it shall be lawful for any judge of a supreme, superior or circuit court within the state or territory where the parties may be, to take the probate or acknowledgment of said deed or other instrument; and the private examination of any married woman who may be a party thereto, as to whether she voluntarily executed the same; and the certificate of such judge, as to such acknowledgment, or probate and private examination with the certificate of the Governor of the state or territory annexed to such deed or other instrument, that the judge before whom the acknowledgment or probate and private examination were taken, was at the time of the taking of

Supreme Court or Circuit Court-Judge may take acknowledgment or probate of deeds, powers of Attorney and other instruments.

And private examination of married women.

When certificate of Governor is annexed.

the same, a judge as aforesaid, being exhibited before the judge of the court of probate of the county in this state in which the property is situated, shall (if the same be according to the provisions of this act) be adjudged by him to be sufficient and shall be ordered to be registered with the certificate thereunto annexed.

Sufficient for registration.

When act to take effect.

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

Ratified the 4th day of December, A. D. 1871.

CHAPTER II.

AN ACT TO AMEND THE CHARTER OF THE RALEIGH AND GASTON RAILROAD COMPANY.

Amendment to act of 4th March, 1867.

SECTION 1. *The General Assembly of North Carolina do enact*, That section one (1) of an act of the general assembly entitled "an act to amend the charter of the Raleigh and Gaston railroad company, ratified the fourth day of March, one thousand eight hundred and sixty-seven, be amended so as to read as follows: That the stockholders of the company at the regular meetings thereof, shall elect a president and six directors, each of whom shall be a stockholder in said company, and shall constitute the board of directors of said company, with power to manage all the affairs thereof, and shall continue in office for one year, or until their successors are elected. In the election of president and directors, and whenever a vote by stock shall be taken, each stockholder shall cast one vote for each share of stock owned by him. The president and any three members of the board, or in the absence of the president any four members of the board, shall constitute a quorum for the transaction of business, and shall elect one of their number president *pro tem*. In case any vacancy shall occur in the office of president or directors

Stockholders shall elect President and Directors.

Each share stock entitled to one vote.

Three members with President or four without constitute a quorum.

by death or resignation, or otherwise, such vacancy shall be filled by the appointment of the board until the next election. Vacancy how filled.

SEC. 2. That all parts of sections and clauses of the original charter of said company, and amendments thereto, coming in conflict with this act, be, and the same are hereby repealed. Conflicting acts repealed.

SEC. 3. That upon the acceptance of this act as a part of the charter of said company by the stockholders representing a majority of the stock at the first general meeting of the stockholders thereof, it shall become and constitute a part of the charter of said company. When accepted, becomes part of charter.

SEC. 4. That this act shall be in force from and after its ratification. When takes effect.

Ratified the 4th day of December, A. D., 1871.

CHAPTER III.

AN ACT CONCERNING THE JURISDICTION OF THE SUPERIOR COURTS.

SECTION 1. *The General Assembly of North Carolina do enact*, That in all cases where the superior court in vacation has jurisdiction under the existing laws of the State, and all of the parties unite in the proceedings, they may apply for relief to the superior court in vacation or in term time at their election. Parties may apply for relief to the Superior Court in vacation.

SEC. 2. *Be it further enacted*, That in all cases heretofore acted upon, in which the superior court in vacation had jurisdiction, it shall be no objection to the order or decree that it was made by the court in term time. Cases acted upon in Superior Court vacation, do not conflict with court in term time.

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

Ratified the 4th day of December, A. D. 1871.

CHAPTER IV.

AN ACT TO AMEND THE LAW OF EVIDENCE.

Act of March
28th, 1870, re-
pealed.

SECTION 1. *The General Assembly of North Carolina do enact,* That an "act to declare the law of evidence in certain cases," ratified the twenty-eighth day of March, anno domini, one thousand eight hundred and seventy, be and the same is hereby repealed.

Law of evidence
relating to crime
re-enacted.

SEC. 2. That the act entitled "an act to improve the laws of evidence," ratified the twelfth day of March, anno domini; one thousand eight hundred and sixty-six, so far as it relates to criminal proceedings, be and the same is hereby re-enacted, and that all laws and clauses of laws in conflict with this act, are hereby repealed.

When act to be in
force.

SEC. 3. That this act shall take effect from and after its ratification.

Ratified the 4th day of December, A. D., 1871.

CHAPTER V.

AN ACT TO AMEND AN ACT ENTITLED AN ACT TO CHANGE THE
TIME OF HOLDING THE SUPERIOR COURTS OF NEW HANOVER
COUNTY.

Change of time
for holding court.

SECTION 1. *The General Assembly of North Carolina do enact.* That an act entitled an act to change the time of holding the superior courts of New Hanover county, ratified the thirtieth day of March, eighteen hundred and seventy-one, be amended as follows: Strike out the whole of the first section of said act, and insert instead thereof that there shall be four terms of the superior court for the county of New Hanover in each year, to be held for two weeks unless the business be sooner disposed of, and that the time for holding

the said courts shall be as follows, viz: On the fourth Monday in January, the eighth Monday after the fourth Monday in February, the fourth Monday in June, and the eighth Monday after the fourth Monday in August.

SEC. 2. That the term of the court which may be held on the fourth Monday in January in each year may be continued in session for a period of four weeks unless the business shall be sooner disposed of.

January Term of each year to hold four weeks, if necessary.

SEC. 3. That all laws and parts of laws in conflict with this act be and the same are hereby repealed: *Provided, however,* That this act shall not have the effect to prevent the holding of the terms of the superior court of New Hanover county, commencing on the fourteenth Monday after the fourth Monday in August, eighteen hundred and seventy-one, or to impair in any way the authority of the said superior court at said term in the trial of criminal causes or cases in which the State may be a party.

Laws in conflict with this act repealed.

Proviso.

SEC. 4. That this act shall take effect from its ratification. Ratified the 4th day of December, A. D., 1871.

When act to be in force.

CHAPTER VI.

AN ACT TO CHANGE THE TIME FOR HOLDING THE SUPERIOR COURTS OF ALAMANCE COUNTY.

SECTION 1. *The General Assembly of North Carolina do enact,* That after the first day of January, eighteen hundred and seventy-two, the superior courts for the county of Alamance, shall be held on the second Monday before the first Monday of March and September of each year.

Time for holding the Superior Courts of Alamance county.

SEC. 2. That all process, recognizances and other legal proceedings in civil and criminal actions which have already been issued or may hereafter be issued and had returnable to spring term, eighteen hundred and seventy-two, of said court, shall be deemed and held returnable to the term of

All process, &c., returnable to said court.

said court as now fixed by this act; and all persons who have been recognized or bound or summoned to appear at the spring term of said court for the year eighteen hundred and seventy-two, are hereby required to appear at the term thereof as prescribed in this act; and the secretary of state shall forthwith cause this act to be published, and furnish the sheriff and the clerk of the superior court of Alamance county, with a copy.

Sec. State to furnish a copy of proceedings to Sheriff and Clerk of Superior Court

Conflicting laws to be repealed.

SEC. 3. That all laws and parts of laws inconsistent with this act are hereby repealed.

When act to be in force.

SEC. 4. This act shall be in force from and after its ratification.

Ratified the 4th day of December, A. D. 1871.

CHAPTER VII.

AN ACT TO AUTHORIZE THE PETERSBURG RAILROAD COMPANY TO ERECT A BRIDGE ACROSS ROANOKE RIVER.

Authorized to erect a bridge across Roanoke river.

SECTION 1. *The General Assembly of North Carolina do enact*, That the Petersburg Railroad Company be and is hereby authorized and empowered to erect and keep up a bridge across Roanoke river, for the passage of their trains, upon the site of their former bridge, destroyed by fire in eighteen hundred and fifty-seven; *Provided*, The said bridge shall be an iron structure, and be erected on stone piers, at an altitude not less than twenty-five feet above ordinary low water; *Provided further*, That each of the other railroad companies whose roads have a terminus at or near Weldon, shall have the privilege of using that portion of the tract of the Petersburg Railroad which may be between Weldon and the bridge so to be erected, by paying a fair compensation for the same.

Proviso.

Proviso further.

SEC. 2. That the said Petersburg Railroad Company shall be allowed a construction length of five miles for the road between the bridge and Weldon; and the rates for all freights to or from all the railroads terminating at Weldon, and the Roanoke Navigation Company shall be the same per mile as may be charged on the same kind and class of freights between Weldon and Petersburg.

Extension of road and rates of freight.

SEC. 3. All acts or parts of acts inconsistent herewith are hereby repealed.

Conflicting acts repealed.

SEC. 4. This act shall take effect from and after its ratification.

When act in force.

Ratified the 6th day of December, A. D. 1871.

CHAPTER VIII.

AN ACT TO AUTHORIZE THE COMMISSIONERS OF PERQUIMANS COUNTY TO ISSUE BONDS TO FUND AND PAY THE COUNTY DEBT.

SECTION 1. *The General Assembly of North Carolina do enact,* That in order to liquidate the debts of the county of Perquimans the commissioners of said county are hereby authorized to issue coupon bonds not exceeding in amount the sum of five thousand dollars in denominations of not less than twenty-five dollars, nor more than one hundred.

Bonds to be issued for paying debt of Perquimans county.

SEC. 2. That said bonds shall fall due and be payable five years from the date of their issue, and shall bear interest at the rate of six per cent. per annum, and the coupons attached to said bonds shall be receivable in payment of county taxes for any fiscal year in which they may fall due.

Bonds how payable.

SEC. 3. That said bonds and coupons thereon shall be issued by the chairman of the board of commissioners, and countersigned by the clerk, which latter officer shall keep a book suitable for the purpose in which he shall keep an account of the number of bonds issued, their amount and to whom issued; and the amount of bonds and coupons

Chairman of board and clerk shall sign said bonds.

received and cancelled, that upon an inspection of said book a true state of the county debt may be seen, for which service he may receive a reasonable compensation to be fixed by the board.

Commissioners
can redeem bonds

SEC. 4. That said commissioners shall have the privilege to redeem said bonds at any time after the expiration of five years, and it shall be the duty of the county treasurer each year to apply the proceeds of the tax raised under the act, *first* to the repayment of the coupons of said bonds, *second* to the payment of any debts due by the county, and *lastly*, under order of the commissioners, to set apart any overplus of said tax as a sinking fund to meet said debt when due.

Special tax to be
levied.

SEC. 5. That said commissioners of Perquimans county are hereby authorized to levy a special tax if necessary for the purpose of paying interest upon said bonds, and twenty per cent. of the principal annually until said indebtedness is liquidated.

When act to take
effect.

SEC. 6. This act shall be in force from and after its ratification.

Ratified the 6th day of December, A. D. 1871.

CHAPTER IX.

AN ACT TO REQUIRE THE COMMISSION APPOINTED BY ACT OF GENERAL ASSEMBLY OF TWENTY-FOURTH MARCH, EIGHTEEN HUNDRED AND SEVENTY, TO REPORT TO THE GOVERNOR, AND FOR OTHER PURPOSES.

Members of the
Commission for
the Western
North Carolina
Railroad required
to account for all
moneys received
by them to the
Governor.

SECTION 1. *The General Assembly of North Carolina do enact*, That such members of the Commission appointed and constituted by an act entitled an act to provide for the completion of the Western Division of the Western North Carolina Railroad, ratified the twenty-fourth day of March, anno domini eighteen hundred and seventy, as accepted and undertook to discharge the duties prescribed by said

act, be and they are hereby required to render to the governor of the state within twenty days after the ratification of this act, a detailed and itemized account of all moneys received by them, or any of them, by virtue of such commission; and how, when and to whom they or any of them, have disbursed the same, or any part thereof, and for what purpose or purposes.

SEC. 2. That such members of said commission be and they are hereby required to pay, out of any moneys remaining in their hands, to contractors who have done work on said road, any sum or sums of money justly due them for such work now remaining unpaid; and that any remaining sum in their hands, be applied to the construction of said road in pursuance of the charter of the Western North Carolina Railroad Company; and such reasonable sum as the governor may deem necessary to prosecute any suit or suits now pending, or which ought to be brought under the advice of the attorney general of the state, to recover any moneys due the Western North Carolina Railroad Company.

Contractors to be paid.

Remaining money to be expended in suits if necessary.

SEC. 3. That if such members of said commission, or any of them, shall fail to comply with the provisions of this act, it shall be the duty of the attorney general, when notified of such default, to institute suit in the name and on behalf of the Western North Carolina Railroad Company in the superior court of the county of Haywood to compel such members of said commission to render such account, and pay all such sums of money as may be ascertained to be or to have been in the hands of such members of said commission, and not properly disbursed; and moreover, such members of said commission making any such default, shall be deemed guilty of a misdemeanor, and on conviction in the superior court of the county of Haywood, fined in the discretion of the court.

Delinquent commissioners may be sued.

Said commissioners, when deemed guilty, to be fined.

SEC. 4. This act shall be in force from its ratification.

Ratified the 13th day of December, A. D. 1871.

When act to take effect.

CHAPTER X.

AN ACT TO EMPOWER THE COMMISSIONERS OF RANDOLPH AND
DAVIDSON TO ESTABLISH THE DIVIDING COUNTY LINE.

Preamble.

WHEREAS, The dividing line between the counties of Randolph and Davidson is not sufficiently described in many places whereby it has become expedient, in order to prevent inconveniences and disputes between the inhabitants of said counties, that the said dividing line should be more accurately ascertained and laid off:

Commissioners authorized to have the dividing line of said counties established.

SECTION 1. *The General Assembly of North Carolina do enact*, That the county commissioners of the counties of Randolph and Davidson are hereby authorized and empowered to have the dividing line between said counties ascertained, laid off and established, whenever said commissioners shall deem it necessary, strict regard being had to the former line.

Commissioners to appoint surveyor and others. Copy of proceedings to be made to commissioners of each county, and also to be deposited in office of Secretary of State.

SEC. 2. That the said commissioners may appoint such commissioners, surveyor and other attendants as shall be necessary for ascertaining and establishing the said line; and shall cause to be made a return of the proceedings to the board of county commissioners of each of said counties, to be kept among the records thereof, and a copy of the proceedings shall be deposited in the office of the secretary of state; and the said line, when so ascertained and laid off, shall, forever thereafter, be established and confirmed as the dividing line between said counties.

Expense of survey.

SEC. 3. That each county shall bear the expenses of the commissioners appointed to represent it, and at such *per diem* as the commissioners of said counties respectively may agree upon.

SEC. 4. That the said counties jointly shall pay the expenses of the surveyor and other expenses.

When act to be in force.

SEC. 5. That this act shall be in force from and after its ratification.

Ratified the 13th day of December, A. D., 1871.

CHAPTER XI:

AN ACT CONCERNING THE CHATHAM RAILROAD, AMENDATORY OF CERTAIN ACTS, AND AUTHORIZING A CHANGE OF NAME.

SECTION 1. *The General Assembly of North Carolina do enact*, That the Chatham Railroad Company shall hereafter be known by the corporate name of the Raleigh and Augusta Air Line Railroad Company. Change of name.

SEC. 2. That it shall be lawful for the said railroad company to change the line of its road as heretofore prescribed, so as to extend it from its present terminus or such point on the line of the same as it may deem advisable, to such point on the South Carolina line in the direction of Augusta, in the State of Georgia, as the said company may deem most eligible, and as much farther as may be authorized by the states of South Carolina and Georgia, and to locate and construct such branch road or roads, not exceeding in length, from the line of said railroad, as may be authorized from time to time by the stockholders; and in building and the use of such branch railroads the said company shall have all the rights, privileges and immunities granted to it by the act to incorporate the Chatham Railroad Company and other acts amendatory and supplementary to the same, and of this act. Extension of road.
Privilege of branch roads.

SEC. 3. If the capital stock of the said company now authorized shall be deemed insufficient for the purposes of this act it shall and may be lawful for the company in general meeting from time to time to increase the same by the addition of as many shares as they may deem requisite, and the board of directors, with the consent of a majority of the votes of all the stockholders in general meeting may make such portion of the capital stock already authorized, or of any additions to the same as they may deem advisable, a guaranteed or preferred stock, upon which guaranteed or preferred stock, such interest or dividends may be guaranteed as the directors may deem advisable; and the direc- Insufficient funds to be increased by additional shares.

tors may, with the consent of a majority of the votes of all the stockholders in general meeting, secure such guaranteed interest or dividends by liens or mortgages upon all the property and franchise and income of the company, or upon any portion thereof, and the directors may in their discretion authorize subscriptions to be received for such additional stock (either common or guaranteed or both) at such prices and in such manner as may be prescribed by them, or may sell the same or any part thereof for the benefit of the company: *Provided*, That the entire capital stock so created, shall not exceed five million of dollars. And the said board of directors, with the consent of a majority of the votes of all the stockholders, shall have power to borrow money for the purposes of the railroad authorized by this act; and for loans made by them to issue bonds with or without the privilege of conversion into stock in such amounts, and payable at such times and places, and at such rates of interest as they may determine, and to to pledge the property and franchises and income of the company or any portion thereof by mortgage or otherwise, for the payment of the principle of the same and the interest that may accrue thereon.

Mortgages upon property authorized.

Proviso.

Companies of different roads can subscribe to or purchase stock.

Mortgage bonds to be issued.

Bonds to be discharged by Public Treasurer.

SEC. 4. Authority is hereby given to the Raleigh and Gaston railroad company, or any other railroad company connecting therewith, to subscribe to, or purchase stock of any kind of the said Raleigh and Augusta Air Line Railroad Company, and in order to enable them to make such subscription or purchase, it shall be lawful for any such company to issue mortgage bonds for such amount and of such form, and of such rate of interest as it may deem advisable; and it shall be lawful for any such company to purchase or endorse the mortgage bonds of the Raleigh and Augusta Air Line railroad company.

SEC. 5. The said Raleigh and Augusta Air Line railroad company may at any time hereafter discharge the bonds of Chatham railroad company, deposited with the public treasurer, in the same manner and not otherwise, as the said Chatham Railroad Company is now authorized by law to do,

and the public treasurer is hereby directed to return to the said Raleigh and Augusta Air Line Railroad Company, the said bonds of said Chatham Railroad Company, on payment in the manner above prescribed until the whole amount of said bonds of the Chatham Railroad Company held by the state shall have been surrendered.

SEC. 6. All acts and parts of acts heretofore passed inconsistent with this act are hereby repealed.

Conflicting acts repealed.

SEC. 7. This act shall be in force from and after its ratification.

When act to be in force.

Ratified the 13th day of December, A. D., 1871.

CHAPTER XII.

AN ACT TO INSURE THE EARLY PRINTING OF THE LAWS.

SECTION 1. *The General Assembly of North Carolina do enact*, That it shall be the duty of the public printer to call on the secretary of state or his chief clerk daily, during each and every session of the Legislature, within office hours, for certified copies of resolutions and acts of the general assembly.

Duty of Public Printer.

SEC. 2. It shall further be the duty of the public printer immediately after receiving said certified copies to cause such number of each thereof to be printed as the secretary of state may direct, to the end that the same may be distributed as required by law.

Distribution of copies.

SEC. 3. This act shall be in force from and after its ratification.

When act to take effect.

Ratified the 14th day of December, A. D. 1871.

CHAPTER XIII.

AN ACT TO CONSOLIDATE THE PLANTERS' RAILROAD COMPANY
AND THE WILMINGTON AND ONSLOW RAILROAD COMPANY.

Consolidation of
railroad lines.

SECTION 1. *The General Assembly of North Carolina do enact*, That the Planters' Railroad Company and the Wilmington and Onslow Railroad Company, may, and they are hereby authorized and empowered to be merged and consolidated into one corporation in the manner and upon the terms hereinafter provided.

Question of consolidation to be decided by majority vote of the stockholders.

SEC. 2 That at the first or any subsequent meeting of the stockholders of the said Planters' Railroad Company and Wilmington and Onslow Railroad Company, which may be called or held after the ratification of this act, a majority of each stock being represented, in person or by proxy, each of said companies shall decide by a majority vote in favor of or against the consolidation and union of the two companies aforesaid, and if a majority of the stockholders of the Planters' Railroad Company and the stockholders of the Wilmington and Onslow Railroad Company shall decide in favor of consolidation, it shall be the duty of the directors of said companies, respectively, to perfect such consolidation upon such terms as may be agreed upon by them.

By what name known.

SEC. 3. That after the union and consolidation of said company as aforesaid, the corporation thereby formed shall be known by the name and style of the Wilmington and Planters' Railway Company.

This road to have the like privileges of other roads.

SEC. 4. That the said Wilmington and Planters Railway Company shall have all the powers, rights, privileges and exemptions which are contained and provided for in the acts incorporating the said Planters Railroad Company and the Wilmington and Onslow Railroad Company.

Privilege of extension granted

SEC. 5. That the said Wilmington and Planters Railway Company be and the same is hereby authorized to extend the construction of their railroad north through the counties Craven, Green, Pitt. Beaufort, Martin, Bertie, Hertford and

Gates, to the Virginia line, and south through the counties of Brunswick and Columbus, to the South Carolina line.

SEC. 6. That the said Wilmington and Planters Railway Company be and the same is hereby authorized to increase its capital stock to any sum not exceeding four million dollars, and subscription to same may be made on the part of individuals, municipal and other corporations in shares of the value of one hundred dollars each which may be made in lands, timber, work or money, as may be stipulated.

Increase of capital stock.

SEC. 7. That it shall and may be lawful for any incorporated city or town, or any county in which said railroad may be constructed, to subscribe for such amount of stock in said company as they or either of them shall be authorized to do by the inhabitants of said city or town, or citizens of such county, in manner and form as provided for in the act to incorporate the said Planters Railroad Company ratified the first day of March, eighteen hundred and seventy.

Any town or county in which the railroad may be constructed, can take stock.

SEC. 8. That the said Wilmington and Planters' Railway Company is hereby authorized to unite and consolidate with any other railroad company or companies chartered by and organized under the laws of this state, or chartered by and organized under the laws of this state and any other state, or under the laws or any other state or states, or with any intervening railroad, bridge or ferry companies; said union and consolidation to be made and perfected upon such terms as the directors of the said Wilmington and Planters' Railway Company may agree upon.

Union of railroad companies granted.

SEC. 9. That any railroad or other corporation which may have been chartered by the laws of this state for the transportation of freight and passengers is authorized to unite and consolidate with the said Wilmington and Planters' Railway Company, upon such terms as may be agreed upon by the directors of the respective corporations.

Terms of consolidation.

SEC. 10. That for the purpose of borrowing money it may and shall be lawful for the said Wilmington and Planters' Railway Company to make and issue bonds, payable in United States currency, American gold or sterling to an amount not exceeding sixteen thousand dollars per mile of

Bonds to be issued for loans.

its road and branches under the direction of the directors of the said company, to be signed by the president and witnessed by the secretary and under the common seal of the said company, in sums of five hundred dollars each, bearing interest not greater than seven per cent. per annum, and redeemable in the year nineteen hundred and five, or at a date earlier at the option of the said directors.

Deeds of trust or mortgages for payments of said bonds.

SEC. 11. That to secure the faithful payment of the said bonds, it shall and may be lawful for the directors of the said company to make, execute and deliver to such person in the city of New York, or elsewhere, as the said directors may, select, or appoint, a deed of trust or mortgage of the said company, to be signed by the president, and witnessed by the secretary of the said company, under the common seal of the same, wherein shall be conveyed to the person thus appointed, trustee or mortgagee the road, property, income and franchise of said company, acquired or to be acquired, condition for the payment of the interest and final redemption of said bonds.

Establishment of a sinking fund.

SEC. 12. That it may be lawful for the said company to establish a sinking fund for the ultimate redemption of their bonds from the annual profits of the company, and from the sale of any lands or other species of property donated, purchased or subscribed in aid of the construction of the said road and its branches.

Construction of railway in all its bearings.

SEC. 13. *Be it enacted*, That the said company is hereby authorized and empowered to construct and maintain their railroad across, along, or upon any stream of water, water course, street, highway, turnpike or canal which the route of its railroad may intersect or touch; but the said company shall make proper draws in any bridge of said road which may cross a navigable stream, suitable for the passage of such vessels, flats or boats as may navigate such streams at such point of crossing, and shall restore any stream, water course, street, highway, turnpike or canal thus intersected or touched, to its former state, or such state as not unnecessarily to have impaired its usefulness, and the said company shall have the right to cross, intersect, join and unite its

railroad, or any of its branches, with any other railroad, at any point or points on its route, or at either or both termini, and upon the land of such other railroads, or other corporation, with the necessary turnouts, sidings, switches, platforms, buildings, sheds, warehouses, workshops, depots, wharves and other conveniences in furtherance of the object of its connections.

SEC. 14. *Be it enacted*, That the said company shall have the right to commence the construction of said railroad at any point or points it may deem to its interest so to do; and shall have the further right of using any portion of said road constructed by them, before the whole of said road shall be completed, and may charge for transportation thereon.

Rights of construction.

SEC. 15. *Be it enacted*. That the said company is hereby authorized and empowered to erect, maintain and operate one or more lines of telegraph along its roadway and branches, charging and collecting such remuneration for all messages or dispatches as the directors may direct. The said company may connect the said lines of telegraph with the line or lines of any other telegraph company in this state or any adjoining state. It may further lease, farm out or sell the above right, as in the judgment of the president and directors may deem most advantageous to the interest of the company.

Erection of telegraph lines.

Connection of lines.

SEC. 16. *Be it enacted*, That all laws or clauses of laws in conflict with this are hereby repealed, and that this act shall take effect and be in force from and after its ratification.

Conflicting laws to be repealed.

When act to take effect.

Ratified the 20th day of December, A. D. 1871.

CHAPTER XIV.

AN ACT TO AUTHORIZE THE COMMISSIONERS OF BERTIE COUNTY TO ISSUE BONDS.

SECTION 1. *The General Assembly of North Carolina do enact*, That in order to liquidate the just debts of the county

Bonds to be issued for the payment of debts.

of Bertie, the commissioners of said county are hereby authorized to issue coupon bonds not exceeding in amount the sum of twenty thousand dollars, in denominations of not less than twenty dollars, nor more than five hundred; and said bonds shall be issued only in lieu of county orders at par value.

New debts not to be contracted.

SEC. 2. That said bonds shall not be issued to contract any new debt against the county, but to fund such liabilities of the county as are outstanding at this time, of the ratification of this act.

Bonds to be held by sheriff in payment of county taxes.

SEC. 3. These bonds shall bear interest at the rate of six per cent., payable annually, and that the coupons calling for such interest, shall be received by the sheriff in payment of county taxes. The principal of bonds so issued shall be

Payable by yearly installments.

payable as follows: The first one-tenth of the principal of said bonds at the expiration of one year from the first date of January, one thousand eight hundred and seventy two, and each succeeding like amount shall be payable in like manner at intervals of one year from the time of payment of the issue immediately preceeding it.

Manner of ascertaining the true state of the county debt.

SEC. 4. That said bonds, and the coupons thereof, shall be signed by the chairman of the board of commissioners and countersigned by the clerk of the board, which latter officer shall keep a book suitable for the purpose, in which he shall keep an accurate account of the number of bonds issued, and the amount of bonds and coupons received and cancelled, so that upon an inspection of said book the true state of the county debt may be seen.

Taxes necessarily imposed.

SEC. 5. That for the payment of the principal and interest of said bonds, the commissioners of Bertie county are authorized to levy the necessary taxes as occasion may require, from time to time, but they are forbidden to levy or collect any other tax except for the accruing current expenses of the county.

Board of auditors to adjust the claims of the county.

SEC. 6. That Jonathan S. Taylor, S. B. Spruill, Lorenzo S. Webb, Jos. B. Cherry and P. H. Winston, be appointed a board of auditors to audit the claims due before the passage of this act against the county of Bertie. After they have

passed upon the said claims, then it shall be the duty of the commissioners to allow and order the payment of the same; and the aforesaid bonds may then be issued for said orders if the orders are above the sum of twenty dollars.

SEC. 7. This act shall be in force from and after its ratification. When act to take effect.

Ratified the 20th day of December, A. D., 1871.

CHAPTER XV.

AN ACT TO AMEND SECTION ONE, CHAPTER TWO HUNDRED AND SEVENTY-THREE, OF THE LAWS OF ONE THOUSAND EIGHT HUNDRED AND SIXTY-EIGHT AND ONE THOUSAND EIGHT HUNDRED AND SIXTY-NINE, ENTITLED AN ACT TO PROVIDE FOR HOLDING SPECIAL TERMS OF THE SUPERIOR COURT.

SECTION 1. *The General Assembly of North Carolina do enact.* That section one, chapter two hundred and seventy-three of the laws of North Carolina, entitled an act to provide for holding special terms of the superior courts, be amended by inserting after the word "to" in the seventh line thereof the words "some one of the judges of the superior court other than," so as to make the section read: the general assembly of North Carolina do enact. That whenever it shall appear to the governor by the certificate of any judge, or a majority of the county commissioners that there is such an accumulation of civil or criminal actions in the superior court of any county as to require the holding of a special term for its dispatch he shall issue an order to some one of the judges of the superior court other than the judge of the judicial district in which such county is, requiring him to hold a special term of the superior court of such county, to begin on a certain Monday, not to interfere with any of the regular terms of the courts of his district. The judge shall attend and hold such court.

Governor to cause special terms to be held, upon certain certificates, showing necessity.

When act to be in force.

SEC. 2. That this act shall be in force from and after its ratification.

Ratified the 21st day of December, A. D. 1871.

CHAPTER XVI.

AN ACT FOR THE GENERAL RELIEF OF SHERIFFS AND TAX COLLECTORS.

Collection of taxes in arrears.

SECTION 1. *The General Assembly of North Carolina do enact*, That all persons who are or have been sheriffs or tax collectors of the several counties, towns and cities of the state for the years eighteen hundred and sixty-nine, eighteen hundred and seventy and eighteen hundred and seventy-one, and their legal representatives, be and the same are hereby authorized and empowered to collect arrears of taxes due them for the years aforesaid, under such rules and regulations as are now prescribed by law for the regular collection of taxes; *Provided*, That nothing herein contained shall be construed to relieve said sheriffs, tax collectors, or their representatives from their liabilities to pay the state, county or other taxes at the times and places now prescribed by law.

Proviso.

No tax paid upon oath of previous payment.

SEC. 2. No person shall be compelled to pay taxes under the provisions of this act who will make oath, according to law, that he or she has paid the same or believes the same to have been paid: and, *Provided further*, That no executor or administrator shall be compelled to pay such arrears of taxes.

Proviso further.

Collectors to administer oaths.

SEC. 3. Any person authorized to collect taxes under the provisions of this act is hereby authorized to administer the oath mentioned in section two above.

Expiration of time.

SEC. 4. The power and authority hereby given shall determine on the thirty-first day of December, one thousand eight hundred and seventy two.

SEC. 5. This act shall be in force from and after its ratification. When to take effect.

Ratified the 21st day December, A. D. 1871.

CHAPTER XVII.

AN ACT TO REGULATE THE TIME OF HOLDING THE MUNICIPAL ELECTIONS IN THE TOWN OF FAYETTEVILLE.

SECTION 1. *The General Assembly of North Carolina do enact.* That the municipal election in the town of Fayetteville shall be held in each and every year on the first Monday in May. Time for municipal elections.

SEC. 2. That the present mayor and commissioners of said town shall hold their offices until their successors are elected, as provided in the first section of this act. Officers to remain until new election

SEC. 3. This act shall be in force from and after its ratification. When act to be in force.

Ratified the 21st day of December, A. D., 1871.

CHAPTER XVIII.

AN ACT TO INCORPORATE THE BORDER RAILROAD COMPANY.

SECTION 1. *The General Assembly of North Carolina do enact.* That for the purpose of constructing a railroad, of one or more tracks, from some point in Rockingham county to some point or points either on the Virginia or Tennessee line, or on both, to be hereafter determined on as the most advantageous, in the opinion of the company hereinafter named, or their legal representatives, Jones W. Burton, P. Reynolds, Francis Stone, A. B. Johns, Jr., Martin Grogan, Construction of railroad.
Corporators.

Corporate name.	J. T. Morehead and George W. Paeg and their associates, successors and assigns, are constituted a company, and are hereby incorporated under the name and style of the Border
Capital stock.	Railroad Company, with a capital stock of five hundred thousand dollars, with the privilege of increasing the same to five millions of dollars, which shall have a corporate existence as a body politic, for the space of ninety nine years; and by that name may sue and be sued, plead and be impleaded in any court in North Carolina; and may have and use a common seal, and shall be capable of purchasing, holding, leasing and conveying estate, real and personal, and mixed, and acquiring the same by gift or devise, so far as may be necessary for the purpose herein contemplated. And the said company may enjoy all the rights and immunities which other corporate bodies may lawfully exercise, and may make all necessary by-laws and regulations for its government not inconsistent with the constitution of this state and of the United States.
Rights and privileges.	
By-laws.	
Capital stock.	SEC. 2. That the capital stock of said company may be created by subscription on part of individuals, municipal or other corporations, in shares of the value of one hundred dollars each, which may be made in lands, timbers, work or money, as may be stipulated.
Company may receive land as subscription.	SEC. 3. That books of subscription to the capital stock of said company may be opened by the following commissioners, to wit: at Leaksville by Jones W. Burton: at Stoneville, by Francis Stone; at Leaksville, by P. Reynolds; at Island Ford, by J. T. Morehead, and by such other persons and places as they or a majority of them may direct: and that said commissioners, or any three of them, may at any time after said books have been kept open for the space of thirty days, and the sum of twenty thousand dollars has been subscribed to the capital stock of said company, and five per cent. paid thereon, have power to call together the subscribers to said stock for the purpose of completing the organization of said company; and the said subscribers shall be and are hereby declared incorporated into a company by the name and style of the Border Railroad Company.
Subscription to stock.	
Commissioners to keep books.	
Corporate name.	

SEC. 4. That the said company may hold annual meetings of the stockholders, and oftener, if necessary, and at its organization an annual meetings subsequent thereto seven directors shall be elected by the stockholders to hold office for one year, or until their successors shall be elected, and any of said meetings shall have power to make or alter the by-laws of the company: *Provided*, That in all such meetings of stockholders a majority of all the stock subscribed shall be represented in person or by proxy, which proxy shall be verified in the manner prescribed by the by-laws of the company, and each share there represented shall be entitled to one vote on all questions; that it shall be the duty of the directors to elect one of their number as president of said company and to fill all vacancies in the board.

Directors appointed.

Proviso.

President and other officers.

SEC. 5. That after the company shall be organized as aforesaid, the board of directors shall proceed to locate and have constructed, as speedily as possible, on the route they may find most practicable, a railroad as located in the first section of this act; and if said board shall deem it advisable, they can construct their road to the Virginia line at one or more points, and enter this state at one or more points, and the disconnected portions of this road shall be deemed component parts of the Border Railroad; that said company shall have exclusive right of conveyance or transportation of persons, goods, merchandise and produce on the said road, to be by them constructed, at such charges as may be fixed by a majority of its directors; that said company may assign or lease their franchise or their rights of transportation on said road to any person, persons or corporations.

Road may be constructed to the Virginia line.

Further rights and privileges.

SEC. 6. That said company shall have the power to use and enforce the payment of stock subscribed as was heretofore granted to the North Carolina Railroad Company by charter of incorporation; and shall have power to condemn lands for the use of the company when a contract of purchase cannot be made with the owner thereof, to the same extent and in the same manner and under the same rules, regulations and restrictions as the said North Carolina Railroad Company was authorized to do by act of incorporation.

Power to enforce stock subscription.

Contracts.

SEC. 7. That all contracts made and entered into by the president or superintendent of the company, whether with or without seal, shall be binding upon said company, and the president shall, under the instruction of the board of directors, issue certificates of stock to stockholders, which shall be transferable by the by-laws of the company; that the gage of said road shall be such as the board of directors may prescribe.

Certificates of stock.

Limit of time.

SEC. 8. That the commissioners named herein shall have three years to comply with the provisions of section three of this act.

Company may borrow money and issue bonds.

SEC. 9. This corporation shall have power from time to time borrow such sums of money as may be necessary for completing and finishing, or operating their railroad, and to issue and dispose of bonds for any amount so borrowed, and to mortgage their corporate property and franchise to secure the payment of any debt contracted by the company for the purposes aforesaid.

When act to be in force.

SEC. 10. That this act shall be in force from and after its ratification.

Ratified the 21st day of December, A. D., 1871.

CHAPTER XIX.

AN ACT TO AMEND CHAPTER TWENTY-NINE OF THE LAWS OF ONE THOUSAND EIGHT HUNDRED AND SEVENTY AND ONE THOUSAND EIGHT HUNDRED AND SEVENTY-ONE, ENTITLED "AN ACT TO AUTHORIZE THE CONSTRUCTION OF A TURNPIKE ROAD FROM MALONE AND WILSON'S STORE, IN MCDOWELL COUNTY, TO FLAT CREEK IN BUNCOMBE COUNTY.

Extension of Swannanoa Gap Turnpike.

SECTION 1. *The General Assembly of North Carolina do enact*, That section one, of the above entitled act, be amended so as to authorize and require the said John E. Patton, his associates, successors or assigns, to extend the said Swan-

nanoo Gap Turnpike Road from its present terminus at Wilson and Malone's store, in McDowell county, eastward to Crockford and Malone's first cabin, within a time to be determined upon by the board of commissioners of Buncombe county.

SEC. 2. That section two of said act shall be repealed and the following substituted therefor to wit: That when the said John E. Patton or his associates, successors or assigns shall have completed the construction of said road, it shall be reviewed by Fletcher Fortune, Silas Dougherty, James Wilson and Robert Burgin, or a majority of them, and if they, or a majority of them, shall give to the said John E. Patton, his associates, successors or assigns, a certificate under their hands that said road is well constructed, upon a grade to be determined upon, and required by the commissioners herein appointed, or a majority of them, and that it is in as good condition as it can reasonably be made, he, the said John E. Patton, his associates, successors or assigns, shall have power to erect a gate on any part of the said Swannanoa Gap Turnpike, and to collect such tolls as may be prescribed from time to time, by the board of commissioners of Buncombe county, not to exceed, in any case, the following sums, to wit: For hogs or cattle, each two cents; loose horses, three cents; single horsemen, ten cents; one-horse wagon, or cart, twenty cents; two-horse wagon, or cart, forty cents; three-horse wagon, fifty cents; four-horse wagon, sixty cents; five-horse wagon, sixty-five cents; six-horse wagon, seventy cents; one-horse buggy, hack or carriage, thirty cents; two-horse buggy, hack or carriage, fifty cents; *Provided*, That the said John E. Patton, his associates, successor or assigns, shall at all times keep said road in good condition: and, *Provided further*, That no tolls shall be collected on said road from any person passing over said road to any church or public mill within three miles of the same; nor shall any person residing within two miles of said road, as originally constructed, be charged exceeding one-half the tolls fixed upon: and, *Provided further*, That nothing contained in this act shall be so construed as to

Section 2 of said act repealed.

Corporators to inspect condition of road.

Toll gate to be erected.

Rates of toll.

Proviso.

Proviso further.

Proviso further.

prevent the said John E. Patton, his associates, successors or assigns, from collecting such tolls for the passage over that part of said road which has been heretofore completed, as may be prescribed by the board of commissioners of Buncombe county, subject to the above limitations.

When act to be in force.

SEC. 3. This act shall be in force from and after its ratification.

Ratified the 21st day of December, A. D. 1871.

CHAPTER XX.

AN ACT IN FAVOR OF JAMES I. MOORE, SHERIFF OF GRANVILLE COUNTY; JOHN M. BATEMAN, SHERIFF OF WASHINGTON COUNTY, AND F. J. SATCHWELL, SHERIFF OF BEAUFORT COUNTY.

Sheriffs allowed time for settlement.

SECTION 1. *The General Assembly of North Carolina do enact*, That James I. Moore, sheriff of Granville county; John M. Bateman, sheriff of Washington county, and F. J. Satchwell, sheriff of Beaufort county, be allowed until the first day of April, anno domini one thousand eight hundred and seventy-two, to make their settlement with the county treasurers of said counties for the county taxes.

When act to take effect.

SEC. 2. This act shall be in force from and after its ratification.

Ratified the 22d day of December, A. D. 1871.

CHAPTER XXI.

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO INCORPORATE THE ASHEVILLE AND VIRGINIA RAILROAD COMPANY," BEING CHAPTER TWO HUNDRED AND FORTY-TWO, LAWS OF ONE THOUSAND EIGHT HUNDRED AND SEVENTY AND ONE THOUSAND EIGHT HUNDRED AND SEVENTY-ONE.

SECTION 1. *The General Assembly of North Carolina do enact*, That the said act be so amended as to insert before the word "section 1," the following, "The general assembly of North Carolina do enact:" Amendment.

SEC. 2. That the said Asheville and Virginia Railroad Company shall have the right to extend their said line of railroad from the western terminus of their said line at Asheville, N. C., to any point within the county of Cherokee on the Georgia state line. Right of extension.

SEC. 3. That the said extension shall be known as the Dalton and Morganton Railroad Company, with all the corporate franchises, rights, powers, privileges and immunities granted in said act to the said Asheville and Virginia Railroad Company. Name known by.

SEC. 4. That the capital stock of the said Dalton and Morganton Railroad Company shall not exceed the sum of eight millions of dollars, in shares not exceeding the sum of one hundred dollars each. Amount of stock.

SEC. 5. That the following named persons be appointed commissioners to receive subscriptions to the capital stock of said roads in their respective counties: Robert McCombs, B. K. Dickey, of Cherokee; W. R. Crawford, W. A. Euloe, of Jackson; Samuel Gudger, J. G. Martin, of Buncombe; R. V. Welch, R. G. A. Love, of Haywood; J. L. Robinson W. L. Love, of Macon. Commissioners appointed.

SEC. 6. This act shall be in force from and after its ratification. When act to take effect.

Ratified the 22d day of December, A. D., 1871.

CHAPTER XXII.

AN ACT AUTHORIZING THE COUNTY COMMISSIONERS OF HERTFORD TO LEVY AND COLLECT A SPECIAL TAX.

Special tax levied for building court house.

SECTION 1. *The General Assembly of North Carolina do enact*, That the county commissioners of the county of Hertford be and they are hereby authorized to levy and collect a special tax within their county in sums as may from time to time be required, and not exceeding in the whole four thousand dollars to be applied to the construction and rebuilding of a courthouse therein: *Provided*, The tax on the poll shall be equal to the tax levied on three hundred dollars worth of property.

Proviso.

Taxes collected in usual way.

SEC. 2. That said taxes shall be levied and collected in the same manner, and accounted for in every particular as all other county taxes are.

When act to take effect.

SEC. 3. This act shall be in force from and after its ratification.

Ratified the 22d day of December, A. D. 1871.

CHAPTER XXIII.

AN ACT FOR THE RELIEF OF THE SHERIFF OF BLADEN COUNTY.

SECTION 1. *The General Assembly of North Carolina do enact*, That D. J. Clark, sheriff of Bladen county, and his sureties, be and they are hereby relieved from any and all penalties incurred by the failure to pay the State taxes into the public treasury for the year one thousand eight hundred and seventy-one, at the time prescribed by law: *Provided*, Said taxes are paid into the treasury by the first day of December, anno domini one thousand eight hundred and seventy-two.

Proviso.

SEC. 2. This act shall be in force from and after its ratification. When act to be in force.

Ratified the 22d day of December A. D. 1871.

CHAPTER XXIV.

AN ACT CONCERNING JOINT CONTRACTS.

SECTION 1. *The General Assembly of North Carolina do enact*, That in all cases of joint contracts of co-partners in trade or others, suit may be brought and prosecuted on the same against all or any number of the persons making such contracts. Suit brought against joint contracts.

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

Ratified the 3d day of January, A. D., 1872.

CHAPTER XXV.

AN ACT TO AMEND THE CHARTER OF THE NORTH CAROLINA RAILROAD COMPANY, AND FOR OTHER PURPOSES.

WHEREAS, The Northwestern North Carolina Railroad Company executed and delivered two mortgages, one dated the sixteenth day of August, anno domini one thousand eight hundred and seventy, and the other dated the twenty-sixth day of June, one thousand eight hundred and sixty-nine, conveying its entire road, property and franchises, in the manner, upon the conditions, and for the purposes provided for by an ordinance of the convention of the State of North Carolina, ratified the ninth day of March, one thousand eight hundred and sixty-eight, and by an act of the Amendment to the charter of the North Western North Carolina Railroad.

general assembly of North Carolina, ratified the third day of February, one thousand eight hundred and sixty-nine; and *whereas*, All the bonds loaned to said company by the state, under authority of said act of the general assembly have been returned to the treasurer of the state, and all the bonds authorized to be loaned to said company by the state by said ordinance of the convention yet remain in the treasury of the state, although the company is legally entitled to them; and *whereas*, it is necessary that said company should have power to raise money for its purposes, now therefore,

Certificate of amendment.

SECTION 1. *The General Assembly of North Carolina do enact*, That whenever the president of the said Northwestern North Carolina Railroad Company shall certify to the treasurer of the state of North Carolina that this act has been accepted as an amendment of the charter of said company, said treasurer shall forthwith cancel both of the mortgages aforesaid, and deliver the same so cancelled to the president of said Northwestern North Carolina Railroad Company, and that said treasurer do also cancel the bonds or other evidences of debt, signed, sealed and ready for delivery under any part of any ordinance of the convention or act of the general assembly of North Carolina making appropriations or providing for loans to the said railroad company, and file the same so cancelled among the archives of his office.

Mortgages cancelled.

All debts cancelled.

Company may issue bonds.

SEC. 2. That the said company be, and it is hereby authorized, to issue, sell, or otherwise dispose of for its purposes, its bonds or other evidences of debt, to an amount not exceeding twenty thousand dollars per mile of its road, bearing interest at a rate not exceeding eight per cent. per annum, and to secure the same by one or more mortgages or deeds of trust, upon its road, property, real and personal franchises, rights and privileges now held, or which may hereafter be acquired in such manner and form as the board of directors of said company may determine. And the registration of any mortgage or deed, executed in accordance with this act, in the county of Forsyth, in the state of North

Security of interest by mortgage or deeds of trust.

Carolina, shall have the same effect as if such mortgage or deed were registered in every county in said state in which any of the property conveyed may be, any law to the contrary notwithstanding.

Registration to have same effect as in other counties.

SEC. 3. The said North Western North Carolina Railroad Company is also hereby empowered to contract with any corporation or person to complete the whole or any part of its railroad, and to issue to such party shares of its capital stock and to use for the purpose the bonds or evidences of debt of said company hereinbefore authorized to be issued upon such terms and conditions as may be agreed upon by the contracting parties; *Provided however*, That the said company shall in no event issue shares exceeding the amount of its capital stock as fixed by law.

Contract for completion of Railroad.

Shares of stock, and bonds to be issued for its completion.

Proviso.

SEC. 4. All parts of ordinances of the convention and of acts of the general assembly of North Carolina, making appropriations in behalf of, or providing for subscriptions or loans to said company by the state of North Carolina, and all parts of such ordinances as are inconsistent with this act are hereby repealed.

Repealing clause.

SEC. 5. This act shall be in force from and after its ratification.

When act to take effect.

Ratified the 3d day of January, A. D., 1872.

STATE OF NORTH CAROLINA,

OFFICE SECRETARY OF STATE,

Raleigh, February 28th, 1872.

I hereby certify that the dates mentioned in the preamble of the above act were inserted in accordance with "an act to repeal an act passed at the present session and ratified on the fifteenth day of January, one thousand eight hundred and seventy-two, and entitled an act supplementary of an act to amend the charter of the North Western North Carolina Railroad Company, and for other purposes, and to fill certain blanks," ratified January 23d, A. D. 1872.

Secretary's certificate.

H. J. MENNINGER,

Secretary of State.

CHAPTER XXVI.

AN ACT TO AUTHORIZE THE PAYMENT BY THE TREASURER OF COSTS IN CASES WHERE THE STATE APPEALS OR SUES OUT WRITS OF ERROR TO THE SUPREME COURT OF THE UNITED STATES.

When appeals are taken to Supreme Court U. S., treasurer to pay costs when so adjudged

SECTION 1. *The General Assembly of North Carolina do enact*, That in all cases, to which the state of North Carolina is a party, and which may be carried from the courts of this state or from the circuit court of the United States, by appeal or writ of error to the supreme court of the United States, and the state shall be adjudged to pay the cost in said last mentioned court in any of said cases, it shall be the duty of the attorney general to certify to the governor the amount of any such bill of costs, who shall thereupon issue a warrant for the same, directed to the public treasurer, who shall pay the same out of any moneys in the treasury not otherwise appropriated.

Applies to causes in which appeals have already been taken.

SEC. 2. This act shall be construed to apply to cases in which appeals have already been taken, or writs of error already sued out, and to civil as well as criminal cases.

When enforced.

SEC. 3. This act shall be in force from and after its ratification.

Ratified the 5th day of January, A. D. 1872.

CHAPTER XXVII.

AN ACT TO AUTHORIZE THE CITY OF WILMINGTON TO FUND THE CITY DEBT AND ISSUE BONDS.

Board of Aldermen and Mayor may issue bonds.

SECTION 1. *The General Assembly of North Carolina do enact*, That it shall and may be lawful for the board of aldermen of the city of Wilmington to authorize the mayor

of said city to issue bonds of the denomination of five hundred, and one thousand dollars each, to be made payable at the expiration of ten, fifteen and twenty years after the first day of January, in the year of one thousand eight hundred and seventy-two, bearing interest at a rate not to exceed eight per cent. per annum, with coupons attached, for such interest payable semi-annually.

SEC. 2. That the form of said bonds shall be as follows: "United States of America, state of North Carolina, on the — day of —, in the year —, the city of Wilmington promises to — or bearer the sum of — dollars with interest on the same at the rate of — per centum, per annum; said interest shall be payable semi-annually on presentation of the annexed coupons at —. The principal and interest of this bond are payable in gold at —. This bond is issued under the authority of the act of the general assembly of the state of North Carolina ratified the — day of —, A. D., —, and an ordinance of the board of aldermen of the city of Wilmington on the — day of —, A. D., —. Witness the seal of the said city of Wilmington and the signature of the mayor, this — day of —, A. D., —." Which said bonds so issued shall be signed by the mayor of said city, and the seal of said city shall be affixed thereto.

Form of bonds.

Bonds signed by Mayor.

SEC. 3. That the bonds so issued shall not exceed the sum of two hundred thousand dollars in the aggregate.

Amount not to exceed \$200,000.

SEC. 4. That the board of aldermen of said city may authorize the mayor to issue any portion of said bonds to the holders of any of the bonds of said city now outstanding, if in their judgment the interest of the city may be promoted by the exchange of the same.

SEC. 5. That the proceeds of the sale of any of said bonds issued as provided for in this act, shall be exclusively applied to the payment of the debt now outstanding against the said city; and the board of aldermen shall levy a tax upon property of the citizens of said city to provide for the payment of the interest that may accrue upon said bonds, and in like manner provide for the payment of the principal of said

Proceeds of sale of bonds to be applied to payment of debt against said city.

Tax levied.

Sinking fund created.

bonds as they may severally mature, by creating a sinking fund for that purpose, or otherwise according to their judgment.

When act to take effect.

SEC. 6. That this act shall be in force from and after its ratification.

Ratified the 5th day of January, A. D., 1872.

CHAPTER XXVIII.

AN ACT TO RE-ENACT THE PROVISIONS OF SECTION FIFTEEN, CHAPTER THIRTY-SEVEN, OF THE REVISED CODE.

Re-enacts section 15, chapter 37, of Revised Code, allowing proof of handwriting of witness sufficient for registration and of grantor or maker.

SECTION 1. *The General Assembly of North Carolina do enact*, That section fifteen, chapter thirty-seven, of the Revised Code of North Carolina, as follows: "In all cases of the probate of any deed or other instrument required or allowed to be registered, having a subscribing witness, who may be dead, satisfactory proof of his handwriting, or of the handwriting of the grantor or maker, when there is no subscribing witness, shall be deemed sufficient proof for the purpose of allowing the registration thereof;" be and the same is hereby re-enacted.

Repeals conflicting acts.

SEC. 2. That all laws and parts of laws in conflict with this act are hereby repealed.

When in force.

SEC. 3. That this act shall be in force from and after the date of its ratification.

Ratified the 5th day of January, A. D. 1872.

CHAPTER XXIX.

AN ACT TO AMEND SECTION FOUR CHAPTER THIRTY-FIVE
REVISED CODE IN RELATION TO FUGITIVES FROM JUSTICE.

SECTION 1. *The General Assembly of North Carolina do enact*, That section four, chapter thirty-five of the revised code be amended by inserting after the word "thereof" in the third line, the words, "or who conceals himself or herself within the state to avoid arrest, or who having been convicted, has escaped and cannot otherwise be apprehended."

Fugitives from
justice within the
State.

Ratified the 5th day of January, A. D. 1872.

CHAPTER XXX.

AN ACT TO ALLOW THE TRANSFER OF CERTAIN CAUSES PENDING
IN THE LATE COURTS OF EQUITY IN THIS STATE.

WHEREAS, There are upon the dockets of the late courts of equity in this state, a considerable number of suits and petitions for the sale and partition of real and personal property in which the rights and estates of infants, *feme covert*s and others are concerned; in which orders for collection, orders for distribution, and other final orders and decrees have never been made, and which through the inactivity of parties, or from other causes, have not been transferred to the dockets of the present superior courts; but under existing laws may have abated, therefore:

Preamble.

SECTION 1. *The General Assembly of North Carolina do enact*, That in order to protect the interest of all parties concerned such causes, and to save costs therein it shall be lawful for any party, plaintiff or defendant in any such suit or petition, at any time within twelve months from the ratification of

Suits of petitions
transferable to
the trial dockets
of Superior
Courts.

this act, to have such suit or petition transferred to the trial dockets of the superior court for the county in which the same was pending.

Duty of Clerk.

SEC. 2. That it shall be the duty of all clerks of the superior courts, upon the application of such party, plaintiff or defendant, immediately to transfer such suits or petitions to the trial dockets of their respective counties; and every such suit or petition so transferred, shall be tried, conducted and disposed of according to the course of the court and the practice and procedure which are applicable to all like writs and petitions, which have been already so transferred under laws allowing such transfer.

Conflicting clause

SEC. 3. That all laws and parts of laws in conflict with this act are hereby repealed.

When act to take effect

SEC. 4. That this act shall take effect from and after its ratification.

Ratified the 5th day of January, A. D. 1872.

CHAPTER XXXI.

AN ACT TO AMEND SECTION THREE HUNDRED AND THREE OF THE CODE OF CIVIL PROCEDURE.

Amendment.

SECTION 1. *The General Assembly of North Carolina do enact.* That section three hundred and three of the code of

Order of appeals.

civil procedure be amended so as to read as follows: "To render an appeal effectual for any purpose in any civil cause or special proceeding, a written undertaking must be executed on the part of the appellant, with good and sufficient surety, in such sum as may be ordered by the court, not in

Surety not to exceed \$250.

any case to exceed the sum of two hundred and fifty dollars, to the effect that the appellant will pay all costs which may be awarded against him on the appeal, or such sum as may be ordered by the court, must be deposited with the clerk by whom the judgment or order was entered: to abide the

To be deposited with the Clerk.

event of the appeal such undertaking or deposit may be waived by a written consent on the part of respondent.

SEC. This act shall be in force from and after its ratification.

When act to take effect.

Ratified the 5th day of January, A. D. 1872.

CHAPTER XXXII.

AN ACT TO CHANGE THE TIME OF HOLDING THE SUPERIOR COURTS IN THE SEVERAL COUNTIES COMPOSING THE THIRD JUDICIAL DISTRICT.

SECTION 1. *The General Assembly of North Carolina do enact*, That from and after the first day of February, anno domini one thousand eight hundred and seventy-two, the terms of the superior courts of the counties composing the third judicial district of North Carolina shall begin in each of said counties as follows, instead of as now regulated by law: Wilson county, on the fourth Monday in August and February; Wayne county, on the second Monday after the fourth Monday in August and February; Craven county, on the fourth Monday after the fourth Monday in August and February; Onslow county, on the sixth Monday after the fourth Monday in August and February; Lenoir county, on the eighth Monday after the fourth Monday in August and February; Jones county, on the tenth Monday after the fourth Monday in August and February; Greene county, on the twelfth Monday after the fourth Monday in August and February; Carteret county, on the fourteenth Monday after the fourth Monday in August and February.

Change of Terms of the Superior Courts of the third Judicial District.

SEC. 2. That all writs of summons, capiases and other legal precepts, recognizances and bonds for the appearance of parties, returnable to the terms of said courts as now regulated, shall be, by virtue of this act, returnable to the terms as herein established.

All legal proceedings made returnable.

Sec. State shall furnish copies of this act to Clerks of Superior Courts.

Duty of Clerks.

SEC. 3. That immediately after the ratification of this act the secretary of state shall furnish the clerk of the superior courts, in each of the counties of the third judicial district, a certified copy of this act, and it shall be the duty of each of said clerks to give public notice in writing at the court house door in their respective counties, and at five public places in their respective counties, of the time of holding the terms of said superior courts, at the spring term one thousand eight hundred and seventy-two, as prescribed by this act, at least twenty days before the time of holding the said courts.

When act to take effect.

SEC. 4. This act shall be in force from its ratification.

Ratified the 6th day of January, A. D. 1872.

CHAPTER XXXIII.

AN ACT TO CHANGE THE TIME OF HOLDING THE COURTS IN THE COUNTIES OF GRANVILLE AND NASH.

Change of time for holding Superior Courts.

SECTION 1. *The General Assembly of North Carolina do enact*, That the times for holding the superior courts in and for the counties of Granville and Nash, in the sixth judicial district, shall commence as follows, to wit: Nash county on the second Monday in February and August, and Granville county on the tenth Monday after the second Monday in February and August.

All legal proceedings shall be held returnable to said Courts as now fixed by this act.

SEC. 2. That all processes, recognizances, and other legal proceedings in civil and criminal actions which have already been issued and had, or which may hereafter be issued and had, returnable to the next term of said court, shall be deemed and held returnable to the several terms of said courts as now fixed by this act; and all persons who have been recognized or bound and summoned to appear at the next superior court of said counties of Granville and Nash, are hereby required to appear at the term as prescribed in

this act; and that the secretary of State shall forthwith furnish the sheriff and clerk of the superior court, and the board of county commissioners in the above named counties with a copy of this act.

Sec. State to furnish Sheriff and Clerk Superior Court and Board of Commissioners with a copy of this act.

SEC. 3. That all laws and parts of laws inconsistent with this act are hereby repealed.

Repealing clause.

SEC. 4. This act shall take effect from and after its ratification.

When act to take effect.

Ratified the 6th day of January, A. D. 1872.

CHAPTER XXXIV.

AN ACT FOR THE COLLECTION OF ARREARS OF TAXES IN THE COUNTY OF JACKSON.

SECTION 1. *The General Assembly of North Carolina do enact*, That the county commissioners of Jackson county, be, and they are hereby authorized and empowered to appoint some discreet person in said county to collect arrears of taxes levied in said county for the years one thousand eight hundred and sixty-nine and one thousand eight hundred and seventy.

Arrears of taxes to be collected.

SEC. 2. Such person so appointed after filing bond as sheriffs are required to do for the collection of taxes with approved security in double the amount of the estimated arrears of taxes in said county for said years, shall have the same power and authority as was granted the sheriffs and tax collectors of the state by chapter forty-six, laws of one thousand eight hundred and seventy and one thousand eight hundred and seventy-one, ratified the tenth day of February, anno domini, one thousand eight hundred and seventy-one.

Bond required, with security.

Appointee granted authority

SEC. 3. This act shall apply to all the territory included within the boundary line of said county of Jackson as it existed before the creation of the county of Swain.

Territory included.

SEC. 4. The collector aforesaid shall receive the same fees and commissions as are allowed for the collection of taxes;

Pay of collector.

and the taxes collected under the provisions of this act for the years respectively aforesaid, shall be applied according to the intent as when originally levied.

Time determined.

SEC. 5. The powers hereby granted shall determine on the thirty-first day of December, anno donini, one thousand eight hundred and seventy-two.

When act to take effect.

SEC. 5. This act shall be in forced from and after its ratification.

Ratified the 9th day of January, A. D., 1872.

CHAPTER XXXV.

AN ACT TO ERECT A TOLL GATE BETWEEN FRANKLIN, NORTH CAROLINA, AND CLAYTON, GEORGIA.

Turnpike:

SECTION 1. *The General Assembly of North Carolina do enact*, That the road leading from Franklin, in the county of Macon, to the locust stake, in Georgia line, in the direction of Clayton, Georgia, be and the same is hereby declared a turnpike.

Gate and toll.

SEC. 2. That the county commissioners of Macon county be and they are hereby authorized to erect a toll gate on said road, and demand such tolls as they may deem proper of persons using said road, not exceeding the highest rates allowed on the western turnpike: *Provided*, No citizen of this State shall be required to pay toll thereat.

Proviso.

When act to be in force.

SEC. 3. That this act shall be in force from and after its ratification.

Ratified the 9th day of January, A. D. 1872.

CHAPTER XXXVI.

AN ACT TO CHANGE THE LINE BETWEEN THE COUNTIES OF
MITCHELL AND YANCEY.

SECTION 1. *The General Assembly of North Carolina do* Land annexed.
enact, That all that portion of Yancey county lying on the
north side of Taw river, be, and the same is hereby attached
to the county of Mitchell.

SEC. 2. This act shall be in force from and after its ratifi- When act to be in
cation. force.

Ratified the 9th day of January, A. D., 1872.

CHAPTER XXXVII.

AN ACT TO AMEND AN ACT OF PROCEEDINGS IN CRIMINAL CASES,
LAWS OF ONE THOUSAND EIGHT HUNDRED AND SIXTY EIGHT
AND ONE THOUSAND EIGHT HUNDRED AND SIXTY-NINE.

SECTION 1. *The General Assembly of North Carolina do* Amendment.
enact, Chapter third of chapter one hundred and seventy-
eight, section eight, laws of one thousand eight hundred and
sixty-eight and one thousand eight hundred and sixty-nine,
is amended by striking out the words, "or by imprisonment
in a state prison."

SEC. 2. Amend section twenty-nine, subdivision two, of Amendment 2.
said chapter, by striking out the words, "and when the
punishment cannot exceed five years imprisonment."

SEC. 3. This act shall take effect from and after its When act to be in
ratification. force.

Ratified the 9th day of January, A. D., 1872.

CHAPTER XXXVIII.

AN ACT TO AMEND THE CHARTER OF THE WESTERN RAILROAD COMPANY.

- Repealing clause. SECTION 1. *The General Assembly of North Carolina do enact*, That so much of the third section of an act of the general assembly, ratified December twentieth, one thousand eight hundred and sixty-six, entitled an act to enable the Western Railroad Company to complete its road from the coalfields, in Chatham county, to some point on the North Carolina Railroad, as limits the amount of mortgage bonds to be issued said company to the sum of nine hundred thousand dollars be, and the same is hereby repealed, and said company is hereby authorized to issue such an amount of bonds, and upon such terms and conditions as they are now, or may hereafter be permitted and authorized by the stockholders of said company.
- Bonds issued.
- Amendment to charter. SEC. 2. That the power granted by the second section of an act of the general assembly, ratified August twenty-eighth, one thousand eight hundred and sixty-eight, entitled "an act to amend the charter of the Western Railroad Company," be so extended that it shall and may be lawful for said company to extend their road from any point or points on the Wilmington, Rutherford and Charlotte Railroad to the South Carolina line, and to connect with any road or roads now constructed, or that may be hereafter constructed, in South Carolina, and any contract made with any other railroad corporation or individuals for the construction and equipment of the Western railroad or any part thereof, or of any branch or branches of the same, by the president and directors of said company shall be binding: when the same shall be approved by a majority of the stockholders of said company; and said company may begin the construction of any part of said road or any of its branches whenever the stockholders may so determine.
- Privilege of extension.
- Contracts binding when approved by a majority of stockholders.

SEC. 3. That any railroad company or any corporation or joint stock company legally organized is hereby authorized to take or purchase stock, or loan money on credit to or purchase bonds or other securities from this company, or in any other way or manner whatsoever aid in its construction, equipment, extension or operation.

Manner of raising funds for construction of Railroad.

SEC. 4. This act shall take effect and be in force from and after its ratification.

When act to take in force.

Ratified the 10th day of January A. D., 1871.

CHAPTER XXXIX.

AN ACT TO AMEND THE THIRTY-SECOND SECTION OF THE THIRTY-FIFTH CHAPTER OF THE REVISED CODE

SECTION 1. *The General Assembly of North Carolina do enact,* That the thirty-second section of the thirty-fifth chapter of the revised code of North Carolina be amended so as to read as follows: Every person on joint or several trial for his life, may make a peremptory challenge of twenty-three jurors and no more; and in all joint or several trials for crimes and misdemeanors, other than capital every person on trial shall have the right of challenging peremptorily, and without showing cause, four jurors and no more. And to enable defendants to exercise this right, the clerk in all such trials shall read over the names of the jurors on the panel, in the presence and hearing of the defendants and their counsel before the jury shall be impannelled to try the issue; and in all trials whether for capital or inferior offences, the defendants may have the aid and assistance of counsel in making challenges to the jury.

Amendment.

Persons on trial for life or crime may make challenge for jurors.

Right of defendants.

SEC. 2. This act shall be in force from and after its ratification.

When act to take effect.

Ratified the 10th day of January, A. D., 1872.

CHAPTER XL.

AN ACT TO INCORPORATE THE CHARLOTTE AND TAYLORSVILLE
RAILROAD COMPANY.

- Corporate name.** SECTION 1. *The General Assembly of North Carolina do enact,* That a company is authorized to be formed with a capital stock of three hundred thousand dollars, to be divided into shares of one hundred dollars each, to be called and known as the "Charlotte and Taylorsville Railroad Company," for the purpose of building and constructing a railroad, with one or more tracks to be used with steam and other motive power, from Troutman's depot on the Atlantic, Tennessee and Ohio Railroad, in Iredell county, over the most practicable route through the counties of Iredell and Alexander to Taylorsville, and thence, by or near Lenoir and Boon, the most practicable route to some point on the Tennessee line. And such company, when formed as hereafter directed, shall have power to receive, possess, own and transfer real and personal property, to have a common seal, and to pass such by-laws, not inconsistent with the laws of this state, as may be necessary to carry out the object of the corporation; shall be capable in law of suing and being sued, pleading and being impleaded, and shall have and enjoy all the rights of other corporate bodies under the laws of this state; to have land condemned for right of way according to existing laws, and for all other purposes necessary to carry into effect the purposes of said company; and shall generally have and possess, all the rights, privileges and immunities, and be subject to the limitations and restrictions of corporate bodies in this state, and shall have the exclusive right to transfer and carry persons, produce, merchandise and minerals on and along such railroad at such prices as they may fix.
- Location of road.**
- Power granted.**
- Rights and privileges.**
- Corporators.** SEC. 2. That for the purpose of creating the capital stock of such company, John Davidson, Esq., Jacob Parker, John S. Watts, J. A. F. Watts, A. C. Watts, H. W. Mays, G.

W. Flowers, J. P. Matheson, W. H. Conner, James P. White, Ezekiel McLelland, W. S. Melhelm, Marcus Lippard, A. Carson, R. P. Matheson, A. C. McIntosh, E. M. Stevenson, T. J. Watts, R. Watts, G. W. Long, H. J. Alspaugh are hereby appointed commissioners, whose duty it shall be as soon after the passage of this act as may be, to appoint commissioners to open books of subscription at such places and at such times as to them shall seem best, and under such rules and regulations as they may prescribe; such subscriptions or any part thereof may be received payable in money, lands, labor, or material necessary in the construction of said road, bonds, stocks or other valuable credits, in such manner and on such terms as may be agreed on between said company or its commissioners or agents and such subscribers.

Books of subscription.

Subscriptions how payable.

SEC. 3. That whenever the sum of one hundred thousand dollars shall have been subscribed to the capital stock of said company by solvent subscribers, it shall be the duty of the commissioners aforesaid to call a general meeting of the stockholders, after giving notice as to them shall seem sufficient, and at such times and places as they shall determine; and at all general meetings of said stockholders not less than a majority of all the stock subscribed shall constitute a quorum for the transaction of business; and said stockholders, when so met, in general meeting, shall have power, and it shall be their duty, to elect a president and five directors, for said company; and in electing such president and directors, and in enacting such laws as may be necessary, each share of stock represented in person or by proxy shall be entitled to one vote: *Provided*, If a majority of such stockholders shall not attend said first general meeting such as do attend and are present may adjourn from time to time until a majority shall appear.

Capital stock.

General meeting of stockholders.

Majority of stock to form a quorum

President and Directors.

Each share to have a vote.

Proviso.

SEC. 4. It shall be the duty of said stockholders at their first general meeting to prescribe the manner and time in which payments of stocks on the subscription books shall be made; *Provided*, Not more than one half of said sub-

Manner and time for payment of stock.

Proviso.

scription shall be called for in one year after said first general meeting.

Treasurer appointed.

SEC. 5. That it shall be the duty of the president and directors of said company to appoint a treasurer who shall remain in office such length of time as the company in their by-laws shall determine, and said president and directors shall remain in office one year and until others are chosen, and shall have a general direction and management of the affairs of said company, and shall appoint some suitable person as engineer, whose duty it shall be to make the necessary surveys for the location of said railroad, and furnish the president and directors with such survey or surveys and estimates of the cost. Said directors shall have power to fill any vacancy that may occur in their board, and in the absence of the president, elect one for the time. They shall also appoint a secretary whose duty it shall be to keep a fair and correct record of the proceedings of said board and of all the proceedings of the stockholders in general meeting in a book to be provided for that purpose.

Term of office.

Surveys.

Vacancy how filled.

Duty of Secretary.

Annual meeting of company.

SEC. 6. That the president and board of directors shall at least once a year 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 any by-law of the company; and also call a general meeting of the stockholders whenever they may deem it expedient, and the company may provide in their by-laws for occasional meetings called and prescribe the mode thereof.

Subscription to stock.

SEC. 7. That all persons, the commissioners of any county or the authorities of any corporation shall have full power and authority to subscribe to the capital stock of said company to the amount they shall be authorized to do by the proper authorities of any corporation, to the amount they shall be authorized to do by the inhabitants of said county or town; and they may issue bonds or other evidence of debt to enable them to borrow money to pay such subscription, the said subscription to be made by an agent or agents of such county, town or corporation properly authorized by them to make the same, when so made shall be binding on

Manner of subscribing.

such county, company or corporate body in the same manner and to the same extent that it is on the individual subscribers, and such body corporate or company or county shall be represented in all general meetings of the stockholders.

Representation.

SEC. 8. That if the capital stock of said company as authorized by this charter be insufficient to carry out the purposes of the same, it may be increased by said company to nine hundred thousand dollars.

Increase of stock.

SEC. 9. That said company may begin the construction of said road at any point on the line of location according to their discretion; and that for any portion of said road actually constructed, the said company shall be entitled to all the privileges of this act into and over such part so constructed.

Construction of Railroad.

Privileges attached.

SEC. 10. For the purpose of securing the building of said road the company shall have the power to mortgage, sell or lease the same with all its franchise or any part thereof.

Corporate power.

SEC. 11. That this act shall be in force from and after its ratification.

When act to take effect.

Ratified the 11th day of January, A. D. 1872.

CHAPTER XLI.

AN ACT TO AMEND AN ACT AUTHORIZING THE COMMISSIONERS OF CLEVELAND COUNTY TO ISSUE BONDS.

SECTION 1. *The General Assembly of North Carolina do enact*, That section third of an act entitled "an act to authorize the commissioners of Cleveland county to issue bonds," ratified the third day of April one thousand eight hundred and seventy-one, be amended as follows: in line three after the word "year," insert the words, "and for such redemption are hereby authorized to levy a tax of not more than one-tenth of one per cent. on the real and personal property of said county."

Amendment.

Tax levied.

When act to take effect.

SEC. 2. This act shall be in force from and after its ratification.

Ratified the 12th day of January A. D. 1872.

CHAPTER XLII.

AN ACT TO AUTHORIZE THE COMMISSIONERS OF LINCOLN COUNTY TO ISSUE BONDS.

Preamble.

WHEREAS, The county of Lincoln is indebted for the purchase of a new site for a poor house, and outstanding debts of the county, and which were not contracted in aid of the rebellion, and for the purpose of enabling the commissioners of said county to pay the same :

Commissioners empowered to issue bonds.

SECTION 1. *The General Assembly of North Carolina do enact*, That the commissioners of Lincoln county are authorized and empowered to issue bonds of the county, not exceeding ten thousand dollars in amount, in denomination from fifty to five hundred dollars; *provided*, That said bonds shall not be sold for less than their par value; nor shall said bonds or the proceeds of their sale be used for any other purpose than the payment of the debts herein recited.

Proviso.

Payment of bonds.

SEC. 2. That the one half of said bonds shall be payable in five years, and the other half shall be payable in ten years from date, and shall bear interest at eight per cent. per annum, payable semi-annually.

Vote submitted to the people.

SEC. 3. That the commissioners of the county shall submit this act to a vote of the people of the county for their approval during the month of February, and shall have the day and object of the election published in every election district in the county, at least thirty days before the day of election, and the said election shall be held by the sheriff of the county under the same rules and regulations, and subject to the same penalties as are now prescribed by law for the holding of other elections in this state.

Time of election.

Sheriff to hold election.

SEC. 4. This act shall be in force from and after its ratification. When act to take effect.

Ratified the 13th day January, A. D., 1872.

CHAPTER XLIII.

AN ACT TO AMEND SECTION FIFTEEN, CHAPTER TWENTY OF THE ACTS OF THE SPECIAL SESSION OF ONE THOUSAND EIGHT HUNDRED AND SIXTY-EIGHT.

SECTION 1. *The General Assembly of North Carolina do enact*, That section fifteen of chapter twenty, of the acts of the special session of the year one thousand eight hundred and sixty-eight, be amended by inserting immediately before the word "September," wherever the same occurs in said section, the words "March and," so that the same powers, duties and privileges conferred upon and prescribed for the commissioners to be executed at their regular September meeting, shall and may be also executed at their regular March meeting. Amendment.

SEC. 2. That this act shall be in force from and after its ratification. When act to take effect.

Ratified the 13th day of January, A. D., 1872.

CHAPTER XLIV.

AN ACT SUPPLEMENTARY TO AN ACT IN RELATION TO THE LUNATIC ASYLUM, BEING CHAPTER SIXTY-SEVEN, LAWS OF ONE THOUSAND EIGHT HUNDRED AND SIXTY-EIGHT AND ONE THOUSAND EIGHT HUNDRED AND SIXTY-NINE.

SECTION 1. *The General Assembly of North Carolina do enact*, Whenever any person shall be found to be insane in the mode prescribed by chapter sixty-seven, of the laws of one thousand eight hundred and sixty-eight and one thou-

Insane person having income sufficient may go out of State for treatment.

sand eight hundred and sixty-nine, being "an act in relation to the Lunatic Asylum," ratified on the ninth day of March, one thousand eight hundred and sixty-nine, and such person shall be possessed of an income amply sufficient to support those who may be legally dependant for support on the estate of such insane person, and moreover to support and maintain such insane person in any named asylum situate out of the state; and such insane person, if of capable mind to signify such preference, shall in writing declare his or her wish to be placed in such asylum without the state, instead of being in the asylum established by the state; and two respectable physicians who shall have examined such insane person with the justices appointed by said act to make the examination shall deem it proper, then it may be lawful for said justices of the peace, together with said physicians to recommend in writing that such insane person shall be placed in the asylum so chosen as a patient thereof.

Legal custodian
may supply funds

SEC. 2. It shall be the duty of any person having the legal custody of the estate of such insane person to supply the funds for his or her support in the asylum in which he or she may be placed, during his or her stay therein, and so long as they may be sufficient for that purpose over and beyond maintaining and supporting those persons who may be legally dependent on the estate as aforesaid.

Justices report to
clerk Superior
Court.

SEC. 3. It shall be the duty of said justices to report the proceedings in all such cases to the clerk of the superior court of the county into which such insane person may reside or be domiciled, as provided in sections sixteen and seventeen of said act.

Who shall submit
to Judge Superior
Court, and record
approval.

SEC. 4. The clerk of the court shall lay the said proceedings before the judge of the superior court of the district in which the insane person may reside or be domiciled, and, if he approve them, he shall so declare in writing, and such proceedings, with the approval thereof, shall be recorded by said clerk.

Certified copy
warrant to re-
move.

SEC. 5. A certified copy of such proceedings with the approval of the said judge, shall be a sufficient warrant to authorize any friend or friends of the insane person appointed

by the said judge to remove him or her to the asylum designated.

SEC. 6. This act shall be in force from and after its ratification. When in force.

Ratified the 13th day of January, A. D. 1872.

CHAPTER XLV.

AN ACT FOR THE RELIEF OF SUCH PERSONS AS HAVE SUFFERED
FROM LOSS OF RECORDS IN CLAY COUNTY.

SECTION 1. *The General Assembly of North Carolina do enact*, That where any conveyance executed by any person or sheriff, clerk and master, or commissioner of court has been lost, and there is no copy thereof, such persons, whether in or out of office, may execute another of like tenor and date, reciting therein that the same is a duplicate, and such deed shall be evidence of the facts therein contained or recited in all cases wherein the parties thereto are dead, or are incompetent witnesses to prove the same to the extent as if it were the original conveyance. Lost deeds may be replaced by duplicates.

SEC. 2. That the records of any court in or out of the state, and all transcripts of such records, and the exhibits filed therewith, in any case shall be admissible to prove the existence and contents of all deeds, wills, conveyances, depositions and other papers, copies whereof are therein set forth or exhibited in all cases where the record and registry of such as were or ought to have been recorded and registered, or the originals of such as were not proper to be recorded or registered, have been destroyed as aforesaid, although such transcript or exhibit may have been informally certified, and when offered in evidence shall have the like effect as though the transcript or record was the transcript of the record of the court whose records are destroyed and the deeds, wills and conveyances, depositions and other papers therein copied or herewith exhibited were original. Informal certificates to be received as evidence.

Judge of Probate has power to re-execute lost papers upon satisfactory evidence.

SEC. 3. That in all cases where persons are dead or removed from the state, and it is made to appear to the satisfaction of the judge of probate that any donee, barganee, or mortgagee has lost any paper or papers which were or might have been registered according to law by the destruction of the records aforesaid, it shall be lawful for the judge of probate of said county of Clay, upon satisfactory evidence given before him by two or more witnesses under oath of such loss, to re-instate or re-execute such lost papers, reciting therein that the same is done under the provisions of this act, and the same shall be as valid to all intents and purposes as the original papers.

Copies of deeds may be registered.

SEC. 4. That the copies aforesaid of all such deeds, wills, conveyances and other instruments proper to be recorded or registered as are mentioned in the preceding sections may be recorded or registered on application to the court, and due proof that the original thereof was genuine.

When act to be in force.

SEC. 5. This act shall be in force from and after its ratification.

Ratified the 13th day of January, A. D., 1872.

CHAPTER XLVI.

AN ACT TO AMEND CHAPTER ELEVEN OF CODE OF CIVIL PROCEDURE.

Amendment.

SECTION 1. *The General Assembly of North Carolina do enact*, That paragraph four hundred and seventy-eight, chapter eleven of the code of civil procedure, be amended by striking out in lines nine and ten of said paragraph, the words, "which must be filed with the judge of probate."

When act to take effect.

SEC. 2. That this act shall be in force from and after its ratification.

Ratified the 15th day of January A. D., 1872.

CHAPTER XLVII.

AN ACT SUPPLEMENTARY TO AN ACT ENTITLED "AN ACT TO AMEND THE CHARTER OF THE NORTH WESTERN NORTH CAROLINA RAILROAD COMPANY, AND FOR OTHER PURPOSES.

SECTION 1. *The General Assembly of North Carolina do enact*, That the aforesaid "act to amend the charter of the North Western North Carolina Railroad Company, and for other purposes," passed at the present session, be amended as follows, to-wit: by striking out from the preamble thereof the first paragraph thereof, beginning with the word, "whereas," and ending the words "February eighteen hundred and sixty-nine," and insert the following: "Whereas, the North Western North Carolina Railroad Company, executed and delivered to the state a mortgage, dated the twenty-sixth day of June eighteen hundred and sixty-nine, conveying its entire road, property and franchises in the same, upon the conditions, and for the purposes provided for by an act of the general assembly of North Carolina, ratified the third day of February eighteen hundred and sixty-nine."

Amendment to charter.

First paragraph of preamble struck out.

SEC. 2. That section one of said act be also amended by striking out in line seven the words "both of the mortgages aforesaid," and inserting in the room and stead thereof the words, "the said mortgage."

Amendment.

SEC. 3. That this act be in force from its ratification. Ratified the 15th day of January, A. D., 1872.

When act to take effect.

CHAPTER XLVIII.

AN ACT TO AMEND "AN ACT TO INCORPORATE THE GREENVILLE AND FRENCH BROAD RAILROAD COMPANY."

SECTION 1. *The General Assembly of North Carolina do enact*, That the first section of "an act to incorporate the

Amendment.

- Greenville and French Broad Railroad Company," ratified the thirteenth day of February, eighteen hundred and fifty-five, be amended so as to read as follows. That for the purpose of establishing a communication by railroad from some of the railroads now built, or in course of construction in South Carolina along the French Broad valley, across the western part of this state, so as to effect a direct communication between one of said roads in South Carolina, and the east Tennessee and Virginia railroad in east Tennessee. Montraville Patton, William D. Rankin, Ephraim Clayton, William Johnson, M. P. Penland, E. J. Aston, A. H. Polk, Robert B. Vance, A. T. Davidson, A. E. Hall, H. T. Farmer, T. W. Taylor, John D. Hyman, P. F. Patton, V. Ripley, R. W. Allen, Alexander Henry, George W. Fletcher, Daniel Blake, S. Swandale, Alexander McBee, O. P. Mills, Thomas Gower, Simpson Bobo, Gabriel Cannon and D. J. Twitty, their associates, successors and assigns, are hereby constituted a body politic and corporate, under the name and style of "The Greenville and French Broad Railroad Company," and shall have all the rights, privileges and immunities granted by said act, and the same powers and rights granted to the commissioners appointed by the second section of said act.
- Act re-enacted.** SEC. 2. That the provisions of the said act as amended by the first section of this act, and other act of the general assembly amendatory thereof be, and the same are hereby re-enacted.
- When act to be in force.** SEC. 3. That this act shall be in force from and after its ratification.
- Ratified the 15th day of January A. D., 1872.

Conjunction of
Railroad.

Corporators.

Corporate name.

Corporate rights.

Act re-enacted.

When act to be in
force.

CHAPTER XLIX.

AN ACT TO PROVIDE FOR THE COLLECTION OF TAXES BY THE STATE AND THE SEVERAL COUNTIES OF THE STATE ON PROPERTY, POLLS AND INCOME.

SECTION 1. *Valuation of Lands, when to be made :*

The General Assembly of North Carolina do enact, The township board of trustees shall list the lands of the state on the valuation of eighteen hundred and sixty-nine, subject to exception hereinafter made, and shall assess all the personal property in their township that is not exempt by this act, at the cash value, on the first day of April, eighteen hundred and seventy-two, and on the same day annually thereafter, and for such services shall be allowed not more than ten dollars each, annually, except in townships where cities and towns are located, and in that case such compensation as the commissioners of such county may allow. Whenever no legal board of trustees shall exist in any township the county commissioners of such county, at a meeting to be held thirty days after the ratification of this act, shall appoint in every such township three assessors, qualified to serve as jurors, two of whom shall be owners of real estate in the county, who shall constitute boards of trustees for the township, for the purpose of performing all the duties of a regular board of trustees required to be performed by this act, said board shall be entitled to the same *per diem* as regular board of trustees. When land or town lots since last valuation shall have increased in value by means of metal, coal, or other valuable thing being discovered or mines worked, or by reason of new buildings being erected, or where the town lots or lands since such valuation shall have decreased in value by reason of fire or other cause, or by reason of failure of mines, the persons taking the tax lists shall re-value said land or lot and such value shall be returned in the list.

Time to value
lands.

Informal Board
of Trustees-

SEC. 2. *Meaning of the words "lands and real property" in this act:*

The words "land and real property" shall be construed in this act to include not only the soil, but all buildings and erections thereon, all rights and franchises appurtenant thereto, and all mines or minerals on or under the surface.

SEC. 3. *Board shall be notified:*

Notice given.

The county commissioners, by their clerk, shall give to the township boards, previous to the fifteenth day of March, a notice to list the taxable lands and assessments of personal property according to the first section of this act, together with the proper blanks for the same: *Provided*, That ten days notice after the reception of a copy of this act shall be allowed to the commissioners of the several counties of the state to give said notice for this year.

Proviso.

SEC. 4. *Board to advertise in their township:*

Public advertise-
ment.

The board shall advertise in three or more public places within their township, within ten days after they have been notified by the county commissioners, as provided for in section three.

SEC. 5. *When the list is to be given in:*

Time specified.

The list shall be given in by the person charged or his agent, within twenty days after due notice given, as herein prescribed. The property of a corporation shall be given in by the president, cashier, treasurer or other person appointed for that purpose.

SEC. 6. *Real property and farming stock, &c., shall be given in where situated on the first day of April:*

Time and place to
list real estate.

All real property and all stock, farming utensils and other personal property used in connection with the cultivation of a farm subject to taxation shall be given in in the township in which said property is situated on the first day of April, and where the line of any township runs through any resi-

dent's land, the same shall be listed in the township of such resident.

SEC. 7. *All other property and polls to be given in where tax payers reside on the first day of April :*

All other personal property whatever, including moneys, credits, investments in bonds, stocks, joint stock companies or otherwise, and all taxable polls, and all other subjects liable to taxation, except such franchise and personal property as are herein specially provided for, shall be given in in the township in which the person so charged resides on the first day of April. The residence of a corporation, partnership or joint stock association, for the purpose of this act, shall be deemed to be in the township in which its principal office or place of business is situated; if, however, the corporation, partnership, or association, have separate places of business in more than one township, it shall be given in in each, the property or effects therein, but any body of lands belonging to persons or a corporation, partnership or association, and divided by township lines, shall be given in in that township in which the larger part thereof is situated.

When to list other property.

SEC. 8. *Tax payer to give in list of his property :*

At the time and place appointed by the board the tax payer shall attend, and the board shall read over to each one giving in his list, all the articles and subjects of taxation, and thereupon he shall render to the board his or her list of taxables, and at the same time taking the following oath : I, A. B., do solemnly swear (or affirm) that I have rendered a true and full statement of all subjects of taxation which I, in my own right, or as agent of, or in trust for any other person and in any other capacity, am by law required to list for taxation, according to my best knowledge, information and belief: so help me God.

Oath administered to tax-payers.

SEC. 9. *What the list shall contain :*

The list shall state the taxable property of the person giving in, and shall refer to the first day of April, in that year :

Inventory of taxable property.

Inventory of taxable property.

1st. The quantity of land listed in the township last valuation. The land shall be described by name if it has one, otherwise in such way that it may be identified.

2nd. The number of horses, mules, jacks, jennets, goats, cattle, hogs and sheep separately, and the value thereof.

3rd. The estimated value above two hundred dollars, without specifying the articles, of farming utensils, tools of mechanics, household and kitchen furniture, provisions, arms for muster, wearing apparel for the use of owner and family, libraries and scientific instruments.

4th. Money on hand or on deposit in any bank including therein all funds invested within thirty days before in United States bonds, national bank stock, or other non-tax paying whatsoever, with the intent to evade the payment of state, county or other taxes.

5th. The amount of solvent credits owing to the party, whether owing by bond, note, bill of exchange, open account or due and payable, and whether owing by any government, except bonds of this state or of the United States, exempt from taxation by law, except rent accruing for the current year for the hire of taxable property. If any credit be regarded as not entirely solvent, it shall be given in at its estimated value; the party may deduct from the amount of debts owing to him the amount owing by him, and the residue only shall be liable to taxation.

6th. Stocks in any incorporated company or joint stock association, and their estimated value; but the stock shall not be taxed if the company pays a tax.

7th. All other personal property whatever, including therein all musical instruments, plated and silver ware, and the watches and jewelry possessed by the party, his wife, or any minor child.

8th. The income of the party for the ten months next preceding the first day of April in the current year, with a statement of the source or sources from which it was derived. From the amount of the income five hundred dollars shall be deducted, and also the amount derived from any trade, purchase or profession taxed by the laws of this state.

9th. If the party be a non-resident of the county, and owns land therein, it shall state his address, and may name any agent resident in the county, to whom notices may be given respecting his taxes.

SEC. 10. *Guardians, Executors, etc., to give in separately:*

Every guardian, executor, administrator or trustee shall in like manner, but on a separate, give in the property held by him in that capacity; the value of the franchise of every railroad, canal, turnpike, plank road, navigation and banking company, shall be given by the president or chief officer of the said several corporations on the day fixed by this act for the giving in of taxable property to the treasurer of the state, and shall be assessed by the said treasurer, the auditor and the governor of the state; and their valuation shall be returned to the county commissioners of any county in which any part of said roads, or canals, or navigation works shall be; and the tax upon such franchise so valued shall be the same as upon property of equal value; and the tax collected in each county and township shall be in proportion to the length of such road, canal or works lying in such county or township respectively; and such taxes shall be collected as other taxes are required by law to be. The rolling stock of every railroad company, and the vessels employed by any canal or navigation company, on its canals or works, shall be valued with the franchise.

Taxes taken separately by guardians.

Valuation of franchise.

Proportionate tax.

SEC. 11. *What property exempt from taxation:*

1st. The property belonging to the United States or this state, or to any county or incorporated city or town.

Exemptions.

2d. The property belonging to and set apart, and exclusively used for the university, colleges, institutes, academies, the masonic fraternity, order of odd fellows, knights of Pythias, good templars and friends of temperance, schools for the education of youth or support of the poor and afflicted, such property as may be set apart for and appropriated to the exercise of divine worship or the propagation of the

gospel, or used as parsonages, the same being the property of any religious denomination or society.

3d. Such property as may be set apart for grave yards or burial lots, except such as are held with a view to profit or for the purpose of speculating in the sale thereof.

4th. Such property of the state and agricultural societies as may be set apart and used by them for agricultural fairs.

5th. Arms for muster, wearing apparel and provisions for the use of the owner and his family, household and kitchen furniture, mechanical and agricultural implements of mechanics and farmers, libraries and scientific instruments, not exceeding in aggregate value two hundred dollars: *Provided*, That the exemption from taxation shall not exceed two hundred dollars in behalf of any individual tax payer.

6th. If any township board of trustees in any county of the state shall fail to allow the exemptions prescribed in the last preceding sub-division, or shall knowingly allow tax payers more than is exempted in said section, the members of said board concurring in said action, shall be each personally guilty of a misdemeanor, and, on conviction, shall be punished in the discretion of the court.

SEC. 12. *The lists to refer to the first day of April:*

The lists shall refer to the first day of April of the year in which they are given, and relate to the quantity, condition and value of the property, and to age of the party, in reference to his liability to a poll tax on that day.

SEC. 13. *How the property shall be valued:*

In the year prescribed for the valuation of the lands, the board shall affix to the description of each piece of land its true value in money on the first day of April in that year, as hereinbefore prescribed, and this value, unless altered as herein prescribed, shall be annually fixed to that land until a new valuation is made. They shall in every year value the personal property at its true value. The valuation found by them they shall affix to every species of property partic-

Limit of exemption.

Failure of compliance a misdemeanor.

Reference of lists, and characters

Annual valuation.

ularized in section nine of this act. If any person liable to be charged with taxes shall refuse to answer any question respecting his taxable property, he shall be guilty of a misdemeanor, and, on conviction, liable to be punished by fine or imprisonment, and it shall be the duty of the board to whom the refusal is made, to bind over the offender to appear at the next term of the superior court of the county, and to report the fact to the solicitor of the judicial district in order that the offender may be prosecuted. In valuing the property of railroads and other corporations in which the state is a stockholder, the whole property shall be valued, but a part of the valuation shall be deducted proportionate to the interest of the State, and the tax levied on the residue only. The tax so levied, when paid by the corporators, shall be charged by the corporation on the individual stockholders only, and when any dividend shall be declared, the dividend to the state shall exceed that to individual corporators by the amount of all taxes previously paid. Stocks or shares in incorporated companies shall not be taxed when the property of the company is taxed.

Penalty.

Valuation of Railroad property.

Dividend declared.

SEC. 14. *Auditor to provide forms, and Sheriff's to distribute to Boards of Trustees :*

The auditor of the state shall prepare a form to be used in listing property for taxation, and each year shall furnish the sheriff of each county, on or before the fifteenth day of March, with a sufficient number of printed copies, bound in book form with pasteboard backs, and the sheriff shall deliver to the board of each township a sufficient number of such forms for their use.

Formular used.

SEC. 15. *Board to make an abstract of their tax lists :*

The board shall make an abstract of the tax lists given in to them according to form, to be furnished by the auditor of the state, and shall, on or before the first Monday of May in each year, return such abstract to the clerk of the commissioners. They shall also return a list of all property in the township, if not given in for taxation, with a description and

Abstracts of tax lists.

valuation thereof made by the board, and the names of the occupant and the supposed owner, and a list of the taxable polls of the township not given in for taxation. The return so made shall be open to the inspection of all persons interested, and the clerk shall give to any person desiring it a copy of so much thereof as relates to his property, on paying a fee of ten cents.

Fee admissible.

SEC. 16. *County commissioners to revise lists, when :*

Revision of tax lists.

The county commissioners of each county shall meet on the third Monday in May and revise the tax lists and valuation reported to them, and complete the lists by computing the tax payable by each person, and affixing the same opposite his name. They shall sit for three days at least, and when necessary, shall sit until the revision is complete, and shall hear all persons objecting to the valuation of their property, or to the amount of tax charged against them. They shall have power to summon and examine witnesses, and shall correct the abstract of the township board as may be right and just, and so that the valuation of similar property throughout the county shall be as near uniform as possible. They shall have power to raise the valuation upon such property as they shall deem reasonably low. The county commissioners on the prescribed oath may take the list of any person applying to list his taxables at any meeting of the commissioners held on or before the first Monday in July, upon his paying the clerk twenty-five cents for recording the same. The commissioners shall ascertain the value of their property by the examination of witnesses or otherwise, and insert it in the abstract; and without satisfactory excuse they shall add to the tax of the person so allowed to give in, five per cent. on the regular amount of his tax for that year.

Power of Commissioners.

SEC. 17. *How complaints of excess proceeded with :*

Justice rendered for excess of taxation.

If any person shall complain before the commissioners that his property, either real or personal, has been improperly valued, or that he is charged with an excessive tax,

he shall present his claim in writing, and they shall hear any evidence adduced by him, and shall summon and examine any witnesses necessary for a just decision of the question. If they decide against the complainant they shall also give judgment against him for the costs of the investigation, but if the county commissioners shall find that he has cause for complaint, they shall direct their clerk to render a true account thereof, and the account thus rendered, certified by the clerk, shall be returned to the auditor who shall credit the sheriff with the overcharge in his settlement of that year.

SEC. 18.

If the application for relief be made to the commissioners after the sheriff shall have settled the accounts with the auditor, the commissioners shall carefully examine the case, and if in their opinion the applicant is entitled to relief, shall direct the clerk to record, on the record book, the cause of complaint, and the amount which, in the opinion of the commissioners should be refunded to the applicant. The clerk shall make out a copy of such record, certify the same under seal of the commissioners, and deliver to the applicant who shall pay to the clerk a fee of fifty cents. Such copy then shall be transmitted to the auditor of the state, who, on finding the proceedings in conformity with the requirements of this section, shall issue a warrant on the treasurer of the state for the amount specified. The treasurer shall, on presentation of such warrant, pay to the holder of the same the amount to be refunded. Manner of relief.

SEC. 19. *Persons not giving in to be charged with double tax:*

The county commissioners shall insert in the abstract of the tax list for each township, the description and valuation of all property not given in, with the name of the person supposed to be liable for the taxes thereon, and the names of all persons in each township liable for a poll tax who failed to give themselves in, and shall charge all such persons Double taxation.

with double the tax with which they would otherwise be chargeable ; unless satisfactory excuse therefor be rendered.

SEC. 20. *County Commissioners may exempt from poll-tax :*

Exemption from
poll tax.

The county commissioners shall have power to exempt any person from the payment of a poll-tax on account of poverty and infirmity, and the clerk shall deliver to the sheriff a list of all persons so exempted with the amount of taxes charged against them, and shall also send a copy of such list to the Auditor of State, and the sheriff shall be entitled to a deduction for such taxes in any settlement he may be required to make.

SEC. 21. *Copies of revised tax list, how distributed :*

Distribution of
revised tax lists.

The county commissioners shall cause to be made out two copies of the tax lists of each township, as revised and settled by them according to a form to be furnished to them by the auditor of the state. Such form shall show in different columns the amount due by each tax payer to the state and to the county, one of said copies shall remain in the office of the clerk of the commissioners, the other shall be delivered to the sheriff on or before the first Monday in July in each year, and he shall receipt for the same. The clerk shall endorse on the copies given to the sheriff an order to collect the taxes therein mentioned, and such order shall have the force and effect of a judgment and execution against the property of the person charged in such list. In such list the clerk shall note all appeals from the judgment of the commissioners which have been perfected by the giving of bond as prescribed.

Endorsation of
clerk.

Bond required.

SEC. 22.

Clerk to make
returns.

The clerk of the commissioners, on or before the first Monday in September after the lists are returned, shall return to the auditor an abstract of the same, showing the number of acres of land and their value, and the value of town lots, and the number of white and colored polls sepa-

rately, and specify every other subject of taxation, and the amount as state and county tax paid on each subject, and the amount paid on the whole. At the same time the clerk shall return the auditor an abstract of the lists of the poor, county and school taxes paid in his county, setting forth separately the tax levied on each poll and on each one hundred dollars value of real property for each purpose, and also the gross amount of taxes of every kind levied for county purposes.

Specification of taxes.

Clerk responsible for gross amount of taxes.

SEC. 23.

If any clerk shall make a default of any of the duties prescribed in the preceding section, or shall fail to deliver to the auditor a copy of the sheriff's return, made, sworn to and subscribed as required in section thirty-three of this act, he shall forfeit and pay to the state one thousand dollars to be recovered against him and the sureties of his bond in the superior court of Wake county, at the term next after the default, on motion of the state solicitor, and it shall be the duty of the auditor to inform the solicitor of such default.

Penalty for default.

SEC. 24. *In case land be divided, how tax may be apportioned:*

In case within the interval between two regular periods for the valuation of land or real property, any piece of land or real property shall become divided in ownership, either by partition or a sale of a portion thereof, or otherwise, either of the part owners may at any time, upon five days notice to the other part owners, apply to the township board of trustees, for an apportionment of valuation, which shall be allowed as may be just, and all persons having tax lists are required to amend the same according to the judgment of said board, on the production of a certified copy thereof; *Provided*, That no amendment made after a tax on the land has become due shall operate to affect that tax.

Apportionment of valuation.

SEC. 25. *If valuation altered, when :*

Reduction of
valuation.

If after any listing of real or personal property and before the tax thereon shall become due, the property shall become destroyed or depreciated over twenty-five per cent. on its assessed value, otherwise than by act of the owner, the party charged may apply to the county commissioners, and upon proper proof, may have the valuation reduced, and the board of trustees shall thereupon immediately furnish to the clerk of the county commissioners, as well as to the party, a certified copy of their order in the premises, or the party may apply to the county commissioners who shall make the proper order in relation thereto. If the property was insured the amount of the insurance shall in such case be considered in altering the valuation. In like manner if property shall have increased twenty-five per cent. over its assessed taxable value the sheriff of the county upon ten days notice to the owner, may apply to the board of trustees to alter the valuation of the property, and upon proper proof they shall do so; but the valuation shall not be altered if the appreciation has occurred in consequence of improvements made on the property by draining, clearing, building, or the like.

Insurance to
effect valuation.

SEC. 26. *When taxes may be paid, when due :*

Time of payment.

All taxes shall be due on the first Monday of July in each year. When paid, the sheriff shall note on the tax list against the name of the party the date of payment and the amount paid, he shall also give a receipt to the parties stating the amount of the state and county tax separately, and the date of payment: *Provided*, The sheriff shall not collect the taxes for any year until he shall have settled in full with the state and county treasurer for the taxes of the previous year, (if he was the sheriff or tax collector). Before receiving the tax lists he shall produce the receipts of the state and county treasurer, (if he was the sheriff for the previous year), to the clerk of the county commissioners, and in the event the sheriff fail to produce the aforesaid receipt, the county commissioners shall appoint a tax collector who shall

Receipt given.

Proviso.

give bond as required by the sheriff to faithfully collect and pay over the taxes according to law. When the sheriff shall collect by his deputies who are not sworn, or other such persons, they shall, before the clerk of the board of commissioners, or before a justice of the peace of the county, take and subscribe an oath faithfully and honestly to account for the same with the sheriff or other person authorized to receive them. Said oath shall be filed and kept on the docket of the county board, and for failure of any deputy sheriff to pay over such tax as he may collect, he shall be guilty of a misdemeanor.

Oath administered.

Misdemeanor.

SEC. 27.

The sheriff or his deputy shall attend at the court house, or at his office in the county town, during the months of August and September, for the purpose of receiving taxes; he shall also in like manner attend at least one day during the months of July and October, at some place in each township, of which twelve days' notice shall be given by advertisement at three or more public places; *Provided*, That nothing in this section shall be construed to prevent the collecting officer from levying and selling after the first day of September, but he shall not sell before that day.

Time and place for receiving taxes.

Proviso.

SEC. 28. *How sheriff to collect:*

Whenever the taxes shall be due and unpaid, the sheriff shall immediately proceed to collect them as follows:

Collection of unpaid taxes.

1st. If the party charged have personal property of a value equal to the tax charged against him, the sheriff shall seize and sell the same, as he is required to sell other property under execution.

Property seized and sold.

2d. And before sale of land no insolvent taxables shall be credited to the sheriff in the settlement with the auditor but such as shall be allowed by the county commissioners, a list whereof containing the names and amounts, and subscribed by the sheriffs, he shall return to county commissioners before said settlement, and the same shall be allowed only on his making oath that he has been at the dwelling house

Insolvency.

or usual place of abode of each of the tax payers, and could not there or elsewhere in the county find property wherewith to discharge his taxes or such part thereof as is returned unpaid, and that the persons contained in the lists were insolvent at and during the time when, by law, he ought to have endeavored to collect their taxes; such list shall be recorded in commissioner's docket, and a copy thereof shall be returned to the auditor of the state on or before the day of settlement of the sheriff with the treasurer.

Levy on lands of delinquents.

3d. If the party charged has not personal property to be found in the county of sufficient value, the sheriff shall levy upon the lands of the delinquent or any part thereof; said sheriff shall return a list of said levy to the clerk of the superior court, who shall enter the same in a book to be kept for the purpose, charging therefor ten cents for each levy; the sheriff shall notify the delinquent of such levy and of the day and place of sale by service of a notice, stating those particulars, on him personally. If the delinquent cannot by reasonable diligence be found in the county, but has a known agent therein, and his own address is known, or can by reasonable diligence be ascertained, the notice shall be delivered to such agent, and shall be mailed post paid to the delinquent. If the delinquent has no known agent in the county, or his address cannot with reasonable diligence be ascertained, the sheriff shall publish a notice substantially as above described at the court house door and two other public places, and also in some newspaper published in the county where the land is situated, and if there be no newspaper published in the county, then in the nearest newspaper. The notice shall be served or published as aforesaid at least thirty days before the sale of the land; the sale shall be made at the court house of the county in which the land lies, and shall be on one of the days prescribed for sale under execution, and shall be conducted in all respects as sales under execution are; if the delinquent resides out of the county, and his address be known, the sheriff, within one month after the sale, shall mail to him notice of the sale and of the date thereof, of the name and address of the pur-

chaser, of the sum bid and of the amount of taxes and costs to be paid by him as a condition of his redemption. If any person liable for taxes, not having property in the county where such taxes are due, shall have property in any other county or shall remove from his county after the day of listing, or carry his property therefrom, the collecting officer shall return the fact to the board of commissioners of the county who shall, through their clerk, make an abstract of the same under their corporate seal, which abstract shall have the force of a tax list regularly endorsed for collection in any county of the state. The collecting officer shall forward the same to the proper collecting officer of the county where the person or property may be, who shall collect the amount due thereon with ten per cent. added, which percentage he may retain to his own use, the residue to be forwarded immediately to the officer from whom he received it, to be accounted for as other public taxes. It shall be the duty of the officer to whom such abstract shall be forwarded to make return of his action on the same within thirty days, and said abstract or a duly certified copy may be sent for collection to the same or any other county until the amount due shall be collected.

Change of residence.

Manner of collecting taxes of non-residents.

4th. It is expressly declared that the lands of a minor, lunatic, or person *non compos mentis*, shall in no case be liable to be sold for taxes; but should any guardian of the estate of such person, not pay the taxes on the property of such person when due, the tax list in the hands of the sheriff, charging him as guardian, shall be an execution to be satisfied out of his individual property, or out of the personal property of such ward.

Lands belonging to persons of unsound mind not taxable.

SEC. 29. *Who is to be purchaser and what he shall pay :*

The highest bidder shall be the purchaser; he shall immediately pay to the sheriff the amount of taxes and costs due by the delinquent; the sheriff shall give him a receipt stating the sum paid and upon what amount, and describing the property, and shall cause the same to be recorded by the register of deeds.

Property given to the highest bidder.

SEC. 30.

Sheriff may bid off property for the State.

If no one will bid for any piece of real property, the amount of the taxes assessed thereon and the charges of sale, the sheriff shall bid off the property for the state, and upon proving the fact and tendering to the auditor of the state a deed to the state for the property, duly registered in the county in which it lies, shall have credit for the amount of such tax and charges. The deed shall be deposited without delay by the auditor with the secretary of state. The property so purchased by the state shall be under the control of the board of education, but may be redeemed as hereinafter prescribed.

Deed must be registered.

SEC. 31. *The delinquent may redeem the property within twelve months.*

Property can be redeemed by delinquent.

The delinquent may retain the possession of the property for twelve months after the sale, and within that time may redeem it by paying or tendering to the purchaser the amount paid by him, and twenty-five per cent. in addition thereto. If the purchaser shall accept the sum so tendered, he shall give a receipt therefor. If he shall refuse, the delinquent may pay the same to the clerk of the superior court for the use of the purchaser, and the clerk shall give a receipt therefor. Such payment shall be equivalent to payment to the purchaser. The delinquent may cause the receipt of the purchaser or of the clerk to be registered, and the register of deeds shall refer to such registration on the margin of his registration of the receipts from the sheriff to the purchaser. After the payment to the purchaser or to the clerk for his use as aforesaid, his right under the purchaser shall cease. No sale of property by the purchaser or by the delinquent within twelve months shall convey to their respective vendees any other rights or estates than the parties themselves possess.

SEC. 32. *If the delinquent shall fail to redeem :*

Failure of delinquents to redeem.

If the delinquent shall fail to redeem as prescribed in the preceding section, the purchaser may, within eighteen

months after the purchase, pay to the sheriff the residue of the sum bid by him, together with the interest thereon, at the rate of one per centum per month, from the expiration of the twelve months next succeeding the sale to the day of payment, and demand a deed. The sheriff shall receive the money for the use of the delinquent and make the deed. The sheriff shall be entitled to retain from the money so paid for his trouble in the premises, two dollars, and the residue he shall pay to the delinquent on demand. The deed from the sheriff to the purchaser shall be registered within six months, and when so registered shall convey to the guarantee therein all the estate in the premises which the delinquent had at the time of the sale for taxes.

Money vested in Sheriff.

SEC. 33.

In case the state becomes the purchaser under section thirty, then within twelve months after the sale the delinquent may pay to the county treasurer the county taxes due with twenty-five per cent. added thereto, and to the public treasurer the state tax due and twenty-five per cent. added thereto, together with the costs allowed the sheriffs in the settlement under subdivision three, section thirty-six, of this act, and upon presentation of the several receipts of those officers respectively to the secretary of state, that officer shall endorse upon the deed conveying the property to the state, these words, "Taxes and costs paid, delinquent restored to his rights," and sign the said endorsement, annexing the seal of his office thereto, and charging thirty-five cents therefor, and shall deliver the deed to delinquent or his agent. And upon presentation of said endorsement to the register of the county where the land lies, he shall enter the same on the margin of that page of the county records on which is registered the deed made to the state by the sheriff, charging fifteen cents therefor; and such endorsement, delivery, and registration shall have the effect of re-investing the delinquent with all his rights in the premises. That the time for redemption of any property heretofore bought by the

Delinquent to pay county and State tax.

Endorsement by Sec. State.

Deed registered.

Time of redemption.

state is hereby extended until the 30th day of November, eighteen hundred and seventy-two. That wherever the word delinquent is used in this act, it shall be taken to mean delinquent, or his heirs or assigns.

Sheriffs required
to keep records.

SEC. 34.

Every sheriff shall keep a record of the taxes collected by him from the clerk of the court, and under schedule B of the revenue act, and all forfeitures, arrears from insolvents, double taxes and taxes on unlisted subjects, and on or before the fourth Monday in September shall deliver to the clerk of the county commissioners, a statement setting forth all sums received to that date, not previously accounted for, the date of such receipts, the person from whom received, the amount received from such persons, the subjects on which received, and the aggregate amount, accompanied by an affidavit taken and subscribed before the clerk and attested by him that the statement is correct, and that no receipt has been omitted. And the clerk shall, by the first Monday in October send a duplicate of said statement and affidavit to the auditor of the state, register the name on a book kept in his office for that purpose, and keep a copy of the same in a conspicuous place in the court house until the first of January next ensuing.

Affidavit taken,

Settlements of
Sheriffs,

SEC. 35.

The sheriffs or other accounting officers shall on or before the first Monday in December in each year, settle their state tax, account with the auditor and pay the amount for which he is liable to the treasurer of the state. The auditor shall forthwith report to the state treasurer the amount due from each accountant, setting forth therein the net amount due to each fund, and the treasurer shall open an account against such officer and debit him accordingly. The sheriff, tax collector and other accounting officer, in making his settlement as aforesaid, shall render to the auditor a duplicate of the list required in section thirty-four of this

Manner of settle-
ment.

act. In such settlement the sheriff or other officer shall be charged with the amount of public tax as the same appears by the abstract of taxables transmitted to the auditor, also with all double tax and taxes on unlisted property by him received, and with all other tax which he may have collected or for which he is chargeable. The auditor shall give to each sheriff or tax collector a certified statement embracing the subjects of taxation contained in both lists, and the amount of tax on each subject, which the sheriff or tax collector shall deposit with the clerk of the commissioners of his county for public inspection.

SEC. 36.

The auditor, in making the settlement with the sheriff or tax collector as aforesaid, shall deduct from the lists returned: Deductions from lists.

1. The amount of taxes charged against any person whom the clerk of the commissioners shall certify to have appealed from a decision of the commissioners respecting his liability and to have given the bond required; *Provided*, That the clerk of the court to which the appeal was taken shall certify that it is pending and undecided. Proviso. The sum so unliquidated shall be carried forward by the auditor as a charge against the sheriff or tax collector on his next year's account, from year to year, until the decision of the appeal, after which they shall be collected and paid or balanced if the final decision be in favor of the appellant.

2. All poll tax and taxes on personal property certified by the clerk of the commissioners of the county, by order of the commissioners, to be insolvent and uncollectable.

3. The amount of state tax on land bid off by the state, with the cost attendant on the whole on producing the certificate of the secretary of state, as is provided for in section thirty of this act. The cost allowed shall be for making the deed, fifty cents; for registering, twenty-five cents; and such other sums as were actually paid out by the sheriff. Compensation.

4. All over payments made in former settlements by reason of any error in the clerk's abstracts of taxables.

5. Five per cent. commission on the amount collected. Commission on collection.

SEC. 37.

Fee and mileage.

For his settlement with the state treasurer, the sheriff or tax collector shall be paid three dollars for each day he may be necessarily engaged therein at the city of Raleigh, and traveling expenses to and from said city, at the rate of ten cents per mile by the usual route of travel, said compensation and expenses to be paid on the warrant of the auditor.

SEC. 38.

Penalty for failure of settlement by Sheriffs.

In every case of failure by the sheriff or other accounting officer to settle his accounts within the time prescribed in this act for such settlement and to take the oath required on his settlement, and pay the amount due the treasurer and exhibit his receipt in full to the auditor, the auditor shall forthwith report to the treasurer the account of such sheriff or officer, and furnish him with a copy of the official bond of said officer and his sureties, deducting therefrom nothing for commissions or insolvents, but adding thereto one thousand dollars and ten per cent. of the amount of taxes with which said sheriff is charged for the amount of taxes supposed not to appear in the list transmitted by the clerk, and if the whole amount be not paid, the treasurer, on motion of the solicitor of the sixth judicial district, in the superior court of Wake county, before the clerk thereof, within ten days after the default shall have occurred, shall recover judgment against him and his sureties, without other notice than is given by the delinquency of the officer. And to the end that their obligations and names may be known, the clerk of the superior court shall, on or before the second Monday in September in each year, transmit to the auditor a copy, certified under seal of the court, of the bond of the sheriff and his sureties, upon pain, for his default, of forfeiting to the state one thousand dollars, which the treasurer shall and is hereby specially charged to collect in like manner and at such times as is provided in this section. If the sheriff or other accounting officer shall fraudulently and corruptly fail to account as aforesaid, or shall fraudulently make any deed to the state under section thirty of

this act, he shall be deemed guilty of a misdemeanor, and upon conviction thereof in any court of competent jurisdiction, shall be sentenced to pay a fine in the discretion of the court and be imprisoned not less than three nor more than twelve months.

SEC. 39. *Sheriff's to pay county taxes, when :*

The sheriff or the tax collector shall pay the county taxes to the county treasurer, or other lawful officer. He shall at no time retain in hands over three hundred dollars for a longer time than ten days, under a penalty of ten per centum per month to the county upon all sums so unlawfully retained. On or before the eighth day of January in each year, the sheriff shall account with the county treasurer or other lawful officer, for all taxes which have been collected by him for the county during the fiscal year, and on failure so to do, he shall pay to the county treasurer two per cent. per month on all sums unpaid, and this shall be continued until final settlement. He shall be charged with the sums appearing by the tax lists as due for the county taxes and shall be allowed to deduct therefrom, in like manner as is prescribed in sub-divisions one, two, four and five of section thirty-six of this act, respecting his settlement of state taxes, and also the amount of county tax on land laid off for the state on producing a certificate from the secretary of state that a deed for the same has been deposited with him.

Accountability of
Sheriffs.

SEC. 40. *County commissioners to appoint a committee to assist in settlements :*

The county commissioners, at the last regular or other subsequent meeting in each year, shall appoint one or more of their number to be present and assist at the accounting and settlements between the sheriff and county treasurer provided for in the next preceding section, and also to audit and settle the accounts, of the county treasurer, and of all other county officers authorized to receive or disburse the county funds. The accounts so audited shall be reported to the county commissioners, and when approved by them shall

Settlements ad-
justed by Com-
missioners.

Accounts to be
filed and regis-
tered.

be filed with the clerk and recorded on his book, and shall be *prima facie* evidence of their own correctness and impeachable only for fraud or specified error.

SEC. 41. *Penalty of sheriff for failing to account :*

Delinquency of Sheriff considered penalty.

In case the sheriff of a county shall fail, neglect or refuse to account with the county treasurer and assistant committee as above required, or to pay what may be rightfully found due in such account, he shall forfeit and pay to the state for the use of the county a penalty of twenty-five hundred dollars; it shall be the duty of the county treasurer, and if he neglect or refuse to perform it, of the chairman of the county commissioners to cause an action to be brought in the superior court of the county, on the bond of the sheriff against him and his sureties, to recover the amount owing by him and the penalty aforesaid; if the sheriff shall fraudulently and corruptly fail to account as aforesaid, he shall be criminally liable thereupon in like manner and with the same penalties imposed for such criminal defalcation in section thirty-eight.

SEC. 42. *Other county officers, when to account, and penalty for failure :*

Annual notices to County officers for rendition of accounts.

In each year the county treasurer shall give five days notice to all county officers (except the sheriff,) authorized to receive and disburse the county funds, to appear at the court house of the county, on a certain day during the first ten days of January, before him and the committee appointed by the county commissioners, and present an account of all sums received or disbursed for the county, with their vouchers, and any officer failing to attend and account shall be deemed guilty of a misdemeanor. The accounts when audited shall be reported to the county commissioners at their next meeting, and if approved by them, shall be filed with the clerk and recorded in their proceedings, together with their approval, and shall be deemed *prima facie* correct.

Failure of compliance a misdemeanor.

SEC. 43.

Wherever in this act a duty is imposed upon a sheriff of a county for which a tax collector has been appointed, it shall be incumbent upon the tax collector to perform the said office instead of the sheriff, and such tax collector shall have all the emoluments, and be subject to all the penalties, as provided in the case of sheriffs in this act.

Tax collector may perform the duties of Sheriff.

SEC. 44. *When act goes into effect :*

This act shall be in force from and after its ratification.
Ratified the 17th day of January, A. D., 1872.

When act to be in force.

CHAPTER L.

AN ACT TO VALIDATE THE REVISAL OF JURY LISTS AND FOR OTHER PURPOSES.

SECTION 1. *The General Assembly of North Carolina do enact*, That in all cases where the county commissioners of any county have failed to revise, prepare and correct the jury lists for any county at the time prescribed by law, it shall be lawful for said commissioners at any time to perform the duties required of them according to the provisions of law.

Commissioners may revise jury lists.

SEC. 2. That in all cases where the county commissioners of any county may have revised the jury list or corrected the same, or drawn a jury at a time or in a manner different from that prescribed by law, the same shall be valid as if drawn at the proper time and in the proper manner; *Provided*, said action has been in all other respects conformable to law.

Revision to be valid.

Proviso.

SEC. 3. This act shall in no wise change the time or manner of drawing jurors, or revising, preparing or correcting the jury lists except as above prescribed, or relieve any persons from any penalties for failure to attend to their

Time nor manner to be changed except by law.

duties as county commissioners at the time now prescribed by law.

When act to be in force.

SEC. 4. This act shall be in force from and after its ratification.

Ratified the 18th day of January, A. D. 1872.

CHAPTER LI.

AN ACT TO LEGALIZE THE ACTS OF THE COUNTY COURT OF ALLEGHANY AND OTHER COUNTIES IN THE STATE HELD IN THE MONTHS OF APRIL, MAY AND JUNE, ONE THOUSAND EIGHT HUNDRED AND SIXTY-EIGHT.

Preamble.

WHEREAS, There was a term of the county court held in Alleghany county beginning on Monday, twenty-seventh day of April, one thousand eight hundred and sixty-eight, and in other counties of this state during the months of April, May and June, one thousand eight hundred and sixty-eight, after the passage of an ordinance of the convention ratified the fifth day of February, one thousand eight hundred and sixty-eight, entitled an ordinance respecting the jurisdiction of the courts of the state, and after the ratification of the present constitution; *and whereas*, The acts of the said term of said court are of doubtful validity, therefore,

All County Court proceedings not valid by an ordinance respecting the jurisdiction of the courts of the State are hereby legalized.

SECTION 1. *The General Assembly of North Carolina do enact*, That all things done at the April term of Alleghany county court, or any other county court held in any county of the state during the months of April, May and June in the year one thousand eight hundred and sixty-eight, and all proceedings had thereon which would have been regular and valid but for the passage of an ordinance entitled an ordinance respecting the jurisdiction of the courts of the state, ratified the fifth day of February, one thousand eight hundred and sixty-eight, or for the ratification of the present constitution of the state in the month of April, one thousand

eight hundred and sixty-eight, be and the same are hereby legalized.

SEC. 2. This act shall be in force from and after its ratification.

When act to be in force.

Ratified the 19th day of January, A. D., 1872.

CHAPTER LII.

AN ACT TO ESTABLISH AND LAY OUT A TURNPIKE IN THE COUNTIES OF CAMDEN AND CURRITUCK.

SECTION 1. *The General Assembly of North Carolina do enact*, That David L. Pritchard, of Camden county, is hereby authorized and empowered to lay out, establish and construct a road from some point near the foot of the Old Swamp, in Camden county, to some point at or near John Cox's corner, in Currituck county, on the Great Swamp Road.

Authority guaranteed to David L. Pritchard.

Location of Road.

SEC. 2. That for the purpose of laying out, establishing and constructing said road, he shall have the right to apply to the trustees of any township through which said road may pass, to condemn for the purpose of said road, so much land as may be required to establish and construct said road.

Land condemned.

SEC. 3. That in order to condemn such land, the said trustees shall appoint three disinterested persons, who shall lay out the said road over the lands of any person in said township and assess the damages which the said David L. Pritchard shall pay to the owner of such land, on account of laying out said road, and report to said trustees, who shall, after five days, give notice to said David L. Pritchard, and the owner of such land, hear and determine whether said report shall be confirmed. And in case it shall not be confirmed they shall appoint three other disinterested persons to lay out said road and assess said damages, and in case it shall be confirmed by said trustees, it shall be the land of said Pritchard and his heirs, devisees and assigns for ninety-nine

Valuation of land.

Proviso further. years; *Provided*, he shall keep up said road, and in case he shall fail to keep up said road, said land shall revert to the original owner, and provided either party is dissatisfied with the report of the said assessors, or the assessors, or the decision of the township trustees, they may appeal to the county commissioners, whose decision shall be final.

Exclusive right and authority vested in D. L. Pritchard.

SEC. 4. That said David L. Pritchard and his heirs, devisees and assigns shall have the sole, separate and exclusive right and authority to lay out, establish, construct and control said road, and charge tolls for passing over said road; and shall have the right to charge the following tolls, to wit: for a man on horse back, ten cents; for one horse and cart, fifteen cents; one horse and buggy, twenty-five cents; carriage and two horses, fifty cents; wagon and two horses, thirty-five cents; and all persons on foot shall pass free of toll; all live stock five cents per head.

Rates of Toll.

Violation of toll made a misdemeanor.

SEC. 5. No person shall pass over said road mentioned in the foregoing section as being required to pay toll without paying said tolls, and any person violating this provision shall be liable to double toll, to be recovered from any justice of the peace of Camden or Currituck counties, by the said David L. Pritchard, or his heirs, devisees and assigns, who may at the time be owners of said road; and shall be further guilty of a misdemeanor and liable to trial in either Currituck or Camden county.

Toll gates erected.

SEC. 6. The said David L. Pritchard and his heirs, devisees and assigns shall have a right to establish across said road such gates and other fixtures as may be necessary to secure his rights in said road.

When act to take in force.

SEC. 7. This act shall be in force from and after its ratification.

Ratified the 19th day of January, A. D., 1872.

CHAPTER LIII.

AN ACT TO ALTER THE CONSTITUTION OF NORTH CAROLINA.

SECTION 1. *The General Assembly of North Carolina do enact*, (three-fifths of all the members of each house concurring,) That the constitution of this state be altered as follows, to-wit :

Amend section six of the first article, by striking out the first clause thereof, down to and including the word "but;" this being the clause relating to the state debt. Amendment.
State debt.

Amend section two of the second article by striking out the word "annually," and inserting in lieu thereof, the word "biennially;" being in reference to the sessions of the general assembly. Change of sessions.

Amend section five of the second article, by striking out all that precedes the words "the said senate district," and by striking out the phrase "as aforesaid or" in said section; the part so stricken out having reference to the state census. Census taking.

Add a new section to the second article to be styled "section thirty," and to read as follows: "The members of the general assembly shall each receive three hundred dollars as a compensation for their services during their term, subject to such regulations in regard to time of payment and reduction for non-attendance as may be prescribed by law; but they may have an additional allowance when they are called together in special session, and mileage shall be ten cents per mile for each session." Compensation for services.

Amend section one of the third article by striking out the words "four years," where they occur first in said section, and inserting in lieu thereof, the words "two years," being in reference to the term of executive officers. Term of officers.

Strike out the words "superintendent of public works," wherever they occur in the constitution, thus abolishing that office. Superintendent public works.

Amend section six of the third article by striking out the word "annually," and inserting in lieu thereof, the word

“biennially ;” so as to conform to the provisions respecting the sessions of the general assembly.

Duties Code
Commissioners.

Strike out sections two and three of the fourth article, being the provisions which refer to the appointment and duties of the code commissioners.

Courts.

Alter section four of the fourth article, so that said section shall read as follows: “The judicial power of the state shall be vested in a court for the trial of impeachments, a supreme court, superior courts, such inferior courts as may be established by law, and courts of justices of the peace.”

Supreme Court
Justices.

Alter section eight of the fourth article, so that said section shall read as follows: “The supreme court shall consist of a chief justice and two associate justices; *Provided*, That this shall not apply to the justices during their present term of office, unless by death, resignation or otherwise, the number of associate justices shall be reduced to two.

Proviso.

Judicial District.

Alter section twelve of the fourth article, so that said section shall read as follows: “The state shall be divided into nine judicial districts, for each of which a judge shall be chosen; and in each district a superior court shall be held at least twice in each year, to continue for such time in each county respectively, as may be prescribed by law. The general assembly shall lay off said districts in due time, so that the said nine judges may be chosen and begin their official term at the first general election for members of the general assembly which will occur after the ratification of this section. The general assembly may reduce or increase the number of districts to take effect at the end of each judicial term.”

Strike out section thirteen of the fourth article, which fixes the present judicial districts.

Time prescribed
by Laws for Super-
ior Court Judges

Amend section fourteen of the fourth article by striking out all after the word “office,” and inserting in lieu of the part so stricken out, the following: “The general assembly shall prescribe a proper system of rotation for the judges of the superior courts, so that no judge may ride the same district twice in succession, and the judges may also exchange districts with each other, as may be provided by law.”

Strike out section fifteen of the fourth article, and insert in lieu thereof, the following: "The general assembly shall have no power to deprive the judicial department of any power or jurisdiction which rightfully pertains to it as a co-ordinate department; but the general assembly shall allot and distribute that portion of this power and jurisdiction which does not pertain to the supreme court, among the other courts prescribed in this constitution or which may be established by law, in such manner as it may deem best, provide also a proper system of appeals, and regulate by law when necessary, the methods of proceeding, in the exercise of their powers, of all the courts below the supreme court, so far as the same may be done without conflict with other provisions of this constitution."

Jurisdiction of all Courts below the Supreme Courts.

Strike out sections sixteen, seventeen, nineteen, twenty-five and thirty-three of the fourth article.

Amend section twenty-six of the fourth article by striking out all that part which begins with, and follows the word "but" in said section, and in lieu of the parts so stricken out, inserting the following: "The judicial officers and clerks of any courts which may be established by law, shall be chosen by the vote of the qualified electors, and for such term as may be prescribed by law. The voters of each precinct, established as is elsewhere provided for in this constitution, shall elect two justices of the peace for such term as may be fixed by law, whose jurisdiction shall extend throughout their respective counties. The general assembly may provide for the election of more than two justices of the peace in those precincts which contain cities or towns, or in which other special reasons render it expedient. The chief magistrates of cities and incorporated towns shall have the judicial powers of justices of the peace."

Judicial officers and Clerks, how chosen.

Amend section thirty of the fourth article by striking out the word "townships" and inserting in lieu thereof the word "precincts;" also in the last sentence of the same section, strike out the words "the commissioners of the county may appoint to such office for the unexpired term," and in lieu thereof insert "an appointment to fill such

Vacancies how filled.

vacancy for the unexpired term shall be made as may be prescribed by law."

Amend sections one and seven of the fifth article, by striking out the words "commissioners of the several counties" where they occur in said sections, and in lieu thereof inserting the words "county authorities established and authorized by law."

Tax. Strike out section four of the fifth article, relating to taxation to pay the state debt and interest.

Amendment Amend section six of the fifth article by inserting after the word "instrument" in said section the words "or any other personal property."

Insert the word "and" before the word "surveyor" in section one of the seventh article, and strike out the words "and five commissioners" in said section: also add to said section the following: "The general assembly shall provide for a system of county government for the several counties of the state.

County authorities in lieu of Commissioners.

Amend section two of the seventh article, by striking out the word "commissioners" and in lieu thereof inserting the words "county authorities established and authorized by law," and in the same section strike out the words, "the register of deeds shall be *ex officio* clerk of the board of commissioners."

Subdivision of Counties.

Strike out section three of the seventh article, and in lieu thereof insert the following: "The county authorities established and authorized by law shall see that the respective counties are divided into a suitable number of subdivisions, as compact and convenient in shape as possible, and marked out by definite boundaries, which may be altered when necessary. Said subdivisions shall be known by the name of precincts. They shall have no corporate powers. The township governments are abolished. The boundaries of the precincts shall be the same as those which heretofore defined the townships until they shall be altered."

Townships.

Strike out sections four, five, six, ten and eleven of the seventh article, which relate to the township system.

Amend sections eight and nine of the seventh article, by striking out the words "or townships" where they occur in said sections.

Strike out section three of the ninth article, and in lieu thereof insert the following: "The general assembly shall make suitable provision by law for the management and regulation of the public schools, and for perfecting the system of free public instruction." **Public School System.**

Strike out section five of the ninth article, and in lieu thereof, insert the following: "The general assembly shall have power to provide for the election of trustees of the university of North Carolina, in whom, when chosen, shall be vested all the privileges, rights, franchises and endowments heretofore in any wise granted to, or conferred upon the board of trustees of said university: and the general assembly may make such provisions, laws and regulations from time to time, as may be necessary and expedient, for the maintenance and management of said university." **University of North Carolina.**

Strike out sections thirteen, fourteen and fifteen of the ninth article, relating to the University of North Carolina. Amend section ten of the eleventh article by striking out the words "at the charge of the state," and in lieu thereof, insert the words "by the state and those who do not own property over and above the homestead and personal property exemption prescribed by this constitution, or being minors, whose parents do not own property over and above the same, shall be cared for at the charge of the state." **The indigent to be cared for by the State.**

Alter section seven of the fourteenth article so that said section shall read as follows: "No person who shall hold any office or place of trust or profit under the United States or any department thereof, or under this state, or under any other state or government, shall hold or exercise any other office or place of trust or profit under the authority of this state, or be eligible to a seat in either house of the general assembly; *Provided*, That nothing herein contained shall extend to officers in the militia, justices of the peace, commissioners of public charities, or commissioners for special purposes." **Ineligibility. Proviso.**

Section 8 to be added to the 14th Article.

officers to remain in office.

Sections to be re-numbered.

Add another section to the fourteenth article, to be styled "section 8," and to read as follows: "County officers, justices of the peace and other officers whose offices are abolished or changed in any way by the alteration of the constitution, shall continue to exercise their functions until any provisions necessary to be made by law in order to give full effect to the alterations, so far as relates to said officers shall have been made."

Re-number the sections in those articles from which any section has been stricken, without the insertion of another in its stead; and give to any new section that number which by this method would have been given to the section for which it is substituted, and the alterations shall be embodied into the constitution, and the several sections numbered consecutively.

Ratified the 19th day of January, A. D. 1872.

CHAPTER LIV.

AN ACT AUTHORIZING THE COMMISSIONERS OF ROBESON COUNTY TO ADJUST THE DEBT OF SAID COUNTY.

Adjustment of Robeson Co. debt.

SECTION 1. *The General Assembly of North Carolina do enact*, That the commissioners of Robeson county are hereby authorized to exercise such discretion in compromising or adjusting the debt of said county as they may think consistent with the best interest of the people of the county, and the said commissioners are hereby authorized, if in their judgment it shall be deemed advisable, to employ a financial agent, or appoint such agent who shall serve without salary, and who shall, under the control and direction of said board of commissioners, compromise and adjust the indebtedness of the county on such terms as may be consistent with the interest of the people of said county, and within claims of creditors.

SEC. 2. This act shall be in force from and after its ratification. When act to take effect

Ratified the 20th day of January, A. D., 1872.

CHAPTER LV.

AN ACT TO CONSTRUCT A TURNPIKE ROAD FROM MARION, IN THE COUNTY OF MCDOWELL, TO BURNSVILLE, IN THE COUNTY OF YANCEY.

SECTION 1. *The General Assembly of North Carolina do enact*, That John Carson, Spencer Elliot, John Simmons, G. B. Silvers, Jason Bablew, Wm. Hutchins, T. B. Young, and such other persons as may associate with them for the purposes hereinafter mentioned, be and they are hereby declared a body politic and corporate, under the name of the Marion and Burnsville Turnpike Company, for the purpose of constructing a turnpike road between and leading from the town of Marion up Buck Creek to the Blue Ridge, thence down Tow River to the town of Burnsville, in the county of Yancey; and that under said corporate name they may sue and be sued, plead and be impleaded, have perpetual succession and a common seal.

Corporators.
Corporate name.
Location of road.

SEC. 2. That any two of said persons may open books at Marion, at Burnsville, and the residence of John Antrey on Tow River, and keep them open until the whole of the capital stock of said company, which shall consist of five hundred shares of ten (\$10) dollars each, shall be subscribed; it shall, however, be the duty of the directors to begin the graduation of said road as soon as one hundred shares may be subscribed, if the stockholders shall deem it advisable.

Books of Subscription.
Capital Stock on shares.

SEC. 3. That the stockholders shall elect a board of not less than three directors, which directors shall choose a president from one of their number who shall continue in office from one annual meeting until the next, and until his

President and Directors.

- Term of office.** successor be appointed, and the said directors shall continue in office until the next annual meeting of the stockholders, and until their successors shall be elected; but no failure to elect shall work a forfeiture; and in the absence of the president the directors may appoint a president *pro tem.*, and it shall be in the power of the board to supply any vacancy in their body until said regular annual meeting, whenever such vacancy may occur.
- Vacancies.**
- Appropriation of Buck and Indian Grave Gap Turnpike.** SEC. 4. That the said turnpike company are hereby empowered to appropriate to its use all or any part of the road known as the Buck Creek and Indian Grave Gap Turnpike, and the entire interest of the state is hereby surrendered to the M. and B. Turnpike Company, so far as may apply to that portion of the road between the towns of Marion and Burnsville; and if the president or board of directors for the Indian Grave Gap Turnpike should now have on hand any funds, moneys or debts due their road, after reducing the same to possession, it shall be divided, one-half to their own road and the other half to the Marion and Burnsville Turnpike Company, for which sum or sums so received certificates of stock shall be issued to Yancey and McDowell counties or the proper officers of each in like amounts, but not otherwise affecting the rights of Indian Grave Gap Company.
- Division of funds.** SEC. 5. That whenever any person or persons shall have subscribed stock to the Indian Grave Gap Co., and the same been paid by labor or otherwise, and expended on the location or graduation of the road, the value shall be assessed by the directors, and stock in the Marion and Burnsville Company issued in lieu thereof, subject, however, to all equities.
- Corporate rights of Company.** SEC. 6. That in all other things the company shall be governed by the provisions of the act in relation to turnpike and plank road companies as contained in the revised code, chapter sixty-one, and shall have all the necessary and usual privileges of making by-laws for its government, condemning land, collecting tolls, requiring bonds from its officers and representatives of stock by proxies.

SEC. 7. This act shall be in force from and after its ratification.

Ratified the 20th day of January, A. D. 1872.

CHAPTER LVI.

AN ACT TO REPEAL AN ACT, PASSED AT THE PRESENT SESSION, AND RATIFIED ON THE FIFTEENTH DAY OF JANUARY, ONE THOUSAND EIGHT HUNDRED AND SEVENTY-TWO, AND ENTITLED "AN ACT SUPPLEMENTARY OF AN ACT TO AMEND THE CHARTER OF THE NORTH WESTERN NORTH CAROLINA RAILROAD COMPANY," AND FOR OTHER PURPOSES, AND TO FILL CERTAIN BLANKS.

SECTION 1. *The General Assembly of North Carolina do enact*, That the above recited act, entitled "An act supplementary of an act to amend the charter of the North Western North Carolina Railroad Company, and for other purposes," be and the same is hereby repealed. Repealing clause.

SEC. 2. That the preamble of the above recited act, entitled "An act to amend the charter of the North Western North Carolina Railroad Company and for other purposes," ratified on the third day of January, one thousand eight hundred and seventy-two, be amended by filling up first blank date therein so that same shall read "the sixteenth day of August, *anno domini* one thousand eight hundred and seventy," and by filling up the second blank date in said preamble so that the same shall read "the twenty-sixth day of June, one thousand eight hundred and sixty-nine." Amendment to Charter.

SEC. 3. That the secretary of state be and he is hereby instructed to fill the blanks aforesaid in the original act on file in his office. Blanks filled by Sec. State

SEC. 3. That this act shall be in force from its ratification. When act to take effect.
Ratified the 23d day of January, 1872.

CHAPTER LVII.

AN ACT TO PROVIDE FOR THE PUBLICATION OF AN ACT TO ALTER
THE CONSTITUTION OF NORTH CAROLINA.Publication of
Act.

SECTION 1. *The General Assembly of North Carolina do enact*, That the president of the senate be and he is hereby authorized and directed to have published in the weekly editions of the *Sentinel*, *North Carolinian* and *Era*, newspapers published in Raleigh, a true and perfect copy of "an act to alter the constitution of North Carolina," passed by this general assembly, and ratified the nineteenth day of January, one thousand eight hundred and seventy-two, which said copy shall be authenticated by the certificate of the secretary of state.

To be made six
months before
election.

SEC. 2. That the publication herein provided for shall be made at least six months before the next regular election for members of the general assembly.

When act to be in
force.

SEC. 3. This act shall be in force from its ratification. Ratified the 23d day of January, A. D. 1872.

CHAPTER LVIII.

AN ACT TO RAISE REVENUE.

Assessment of
Taxes.

SECTION 1. *The General Assembly of North Carolina do enact*, That the taxes hereinafter designated, payable in the existing national currency, shall be assessed and collected under the rules and regulations prescribed by law.

Poll Tax.

SEC. 2. On each taxable poll or male between the ages of twenty-one and fifty, except such poor and infirm persons as the county commissioners may declare and record fit subjects for exemption, there shall be annually levied and collected a tax of one dollar and five cents, the proceeds of such tax to

62,160

be devoted to purposes of education as may be prescribed by law. If any poll tax shall not be paid within sixty days after the same shall be demandable, it shall be the duty of the sheriff, if he can find no property of the person liable sufficient to satisfy the same, to attach any debt or other property incapable of manual delivery, due or belonging to the person liable, or that may become due to him before the expiration of the calendar year, and the person owing such debt or having such property in possession, shall be liable for said tax.

Limitation of Time.

SEC. 3. The taxes hereinafter designated shall be applied to defray the expenses of the state government and to pay appropriations for charitable and penal institutions.

Objects of Taxation.

CLASS 1.

SEC. 1. There shall be an *ad valorem* tax of sixteen and two-third cents for the general fund on every one hundred dollars in value of real and personal property of the state, subject to exemptions made by law, including moneys, credits, bonds, stocks, &c.

Classification of Taxes.

SEC. 2. A special tax of ten cents on the one hundred dollars shall be levied and collected on all the taxable property of the state, to be applied to the erection of the penitentiary and support of the convicts.

Special tax for Penitentiary.

SEC. 3. A special tax of eight and one-third cents on the one hundred dollars, shall be levied and collected on all the taxable property of the state, for the insane asylum and the institution for the deaf, dumb and blind.

Asylum Tax.

CLASS 2.

The subjects and persons mentioned in the following class shall be taxed as specially mentioned :

SEC. 1. On the net incomes and profits other than that derived from property taxed from any source whatever, during the year preceding the first day of April in each year, there shall be a tax of one per cent. The income tax shall

Income Tax.

include interest on the securities of the United States, of this state, or other state or government. In estimating the net income the only deduction by way of expense shall be:

Deductions.

1. Taxes other than the income tax due this state.

2. Rent for use of buildings or other property or interest on encumbrances on property used in the business from which the income is derived.

3. Usual or ordinary repairs of the buildings from which the income is derived.

4. Cost or value of the labor, (except that of the tax payer himself,) raw material, food and all other necessary expenses incidental to the business from which the income is derived, together with the necessary expenses of supporting the family, which shall in no instance exceed one thousand dollars.

5. The tax payer shall return to the assessor the gross amount of his income and the gross amount of his expenses, to be deducted therefrom, which return the assessor shall file in the office of the county commissioners.

Real and personal estate.

SEC. 2. Upon all real and personal estate, whether legal or equitable, situated within the state, which shall descend or be devised or bequeathed to any collateral relation or person, other than a lineal descendant or ancestor of the husband or wife of the deceased, or husband or wife of such ancestor or descendant, or to which such collateral relations may become entitled under the law for the distribution of the intestate estates, and which real and personal estate may not be required in payment of debts and other liabilities, the following per centum tax upon the value thereof shall be paid:

1. If such collateral relation be a brother or a sister of the father or mother of the deceased, or issue of such brother or sister, a tax of one per cent.

Collateral Tax.

2. If such collateral relation be a more remote relation or the devisee or legatee be a stranger, a tax of two and a half per cent.

The real estate liable to taxation shall be listed by the devisee or heir in a separate column, designating

its proper per cent. tax. The personal estates or real estates reduced to assets, shall be liable to the tax in the hands of the executor or administrator, and shall be paid by him before his administration account is audited or the real estate is settled, to the sheriff of the county. If the real estate descended or devised shall not be the entire inheritance, the heir or devisee shall pay a *pro rata* part of the tax, corresponding with the relative value of the estate or interest. If the legacy or distributive share to be received shall not be the entire property, such legatee or distributee shall in like manner pay a *pro rata* part of the tax according to the value of his or her interest. Whenever the personal property in the hands of such administrator or executor (the same not being needed to be converted into money in the course of the administration) shall be of uncertain value, he shall apply to the county commissioners to appoint three impartial men of probity to assess the value thereof, and such assessment being returned to the commissioners and being confirmed shall be conclusive of the value.

To facilitate the collection of tax on collaterals, every executor, or administrator, shall return in his inventory whether the estate of the deceased goes to the lineal or collateral relations or to a stranger, and if to collaterals, whether such collateral belongs to the first or second class above mentioned, under a penalty of one hundred dollars, to be recovered in the name and for the use of the state: and it shall be the duty of the superior court clerk of the county to furnish the sheriff with the names of the executors and the administrators who make such returns, after each and every term of his court.

Duty of executors.

Duty of Superior Court Clerk.

SCHEDULE B.

The taxes in this schedule imposed are license tax for the privilege of carrying on the business or doing the act named: and nothing in this schedule contained shall be construed to relieve any person from the payment of the *ad valorem* tax on his property as required by the preceding schedule, and no

Ad-valorem tax.

Amended Ch. 108 Sec. 1
 county, city, town, or other municipal corporations, shall levy any greater tax than levied by the state for the privileges herein taxed.

109 Sec. 2
 Theatres. SECTION 1. Traveling theatrical companies shall pay five dollars for each exhibition. When the theatrical exhibitions are by the season of not less than one month, the tax shall be fifty dollars per month.

Concerts. SEC. 2. On each concert or musical entertainment for profit shall be paid five dollars; on each lecture for reward, five dollars.

Museums. SEC. 3. On museums, wax-works, or curiosities of any kind, natural or artificial (except paintings and statuary) on each day's and night's exhibiting, shall be paid five dollars.

Circuses. SEC. 4. On every exhibition of a circus or menagerie, for each day or a part of a day, forty dollars, and for each side-show to a circus or menagerie, ten dollars.

Itinerants. SEC. 5. On all itinerant companies or persons who exhibit for amusement of the public, otherwise than is mentioned in the four preceding sections, five dollars for each exhibition. Exhibitions given without charge for admission, and where one-half of the gross receipts are given to charitable objects, shall be exempt.

Exemption.
 Gift enterprises. SEC. 6. On all gift enterprises, or any person or establishment offering any article for sale, and proposing to present purchasers with any gift or prize as an inducement to purchase, one per cent. upon the gross receipts. And on any lottery, whether known as a beneficial association or otherwise, five hundred dollars, and five per cent. on gross receipts, to be paid to the treasurer of the state. This tax shall not be construed as a license, or to relieve such person or establishments from any penalties incurred by a violation of the law.

Bank agents. SEC. 7. Every agency of a bank incorporated out of the state, one hundred dollars, to be paid to the state treasurer.

Billiard Saloon. SEC. 8. The tax on billiard saloons shall be twenty dollars on each table. Every place where a billiard table is kept for hire, shall be considered a billiard saloon within the meaning of this act.

SEC. 9. On every bowling alley, or alley of the like kind, Bowling Alley.
or bowling saloon, bagatelle table, or any other table, stand
or place for any other game or play, with or without a name,
unless such alley, stand, place or game is kept for private
amusement or exercise alone, and not prohibited by law,
there shall be a license tax of twenty dollars.

SEC. 10. Every dealer in spirituous, vinous liquors, porter, Liquor dealers.
lager beer, or other malt liquors, shall pay a tax of five per
cent. on the amount of purchases; and every agent who
offers liquors for sale, shall pay the tax on the value of all
liquors of every description sold by him.

SEC. 11. Every licensed retailer of spiritous liquors, wines, Retailers.
or cordials, twenty-five dollars for one year. Every retailer
of malt liquors only, shall pay fifteen dollars. The tax in
this section shall be in addition to the tax imposed on
purchases of liquors in this schedule, and every person who
buys and sells such liquors in quantities less than one quart
shall, within the meaning of this act, be a retail dealer.

SEC. 12. Every merchant, jeweler, grocer, druggist and Merchants of all
every other trader, who as principal or agent, carries on the classes.
business of buying or selling goods, wares or merchandise of
whatever name or description, except the products of manu-
factures of this state, one-eighth of one per cent. on the total
amount of his purchases in or out of the state for cash or on
credit: *Provided*, That no retail merchant shall be required

Proviso.
to pay any tax on any purchase made from wholesale
merchants residing in this state; and, it shall be the duty of
the sheriff to demand that every merchant, liquor seller,
trader, auctioneer, commission merchant, or other person
required to list his purchases, who may do business in his
county, shall pay taxes on the same as the law requires, said
tax to be collected by the sheriff on the first days of January,
April, July and October, in each year, on the purchases for
the preceding quarter. The sheriff shall have power to Power of Sheriff.
require the merchant making such statement to submit his
books to examination by the sheriff, and every merchant
refusing on demand to submit his books to such examina-
tion, shall be liable to a penalty to the state of two hundred Penalty.

dollars, to be prosecuted by the sheriff and recovered in any court having jurisdiction of the case. It shall further be the duty of the sheriff to bring suit against every merchant refusing as aforesaid, in the superior court of the county, as may be prescribed for special proceedings, to the end of obtaining such examination and compelling payment of the proper tax.

Hotels. **SEC. 13.** On the net receipts of hotels, boarding houses, (except those used for educational purposes and as private boarding houses,) restaurants and eating houses, the tax shall be one per cent.

Ferries &c. **SEC. 14.** The tax on public ferries, toll bridges and gates across highways, one per cent. on net receipts.

Brokers. **SEC. 15.** Every money or exchange, bond or note broker, private banker, or agent of a foreign broker or banker, in addition to the *ad valorem* tax on their capital invested, or the tax on their net income, shall pay, if employing a capital of twenty thousand dollars, a license tax of one hundred dollars; if a capital of less than twenty thousand dollars, and not less than ten thousand dollars, fifty dollars; and if a capital of ten thousand dollars or less, a tax of twenty-five dollars; and also ten (dollars) additional for each county in which they have an agency, the tax to be paid to the public treasurer, the license to be given by the auditor.

Riding vehicles. **SEC. 16.** Every person who, for himself or as agent for another, sells riding vehicles not manufactured within the state, shall pay two per cent. on his sales.

Auctioneers. **SEC. 17.** Every auctioneer on all goods, wares or merchandise, sold by himself or agent, whether by ascending or descending bids, or at public outcry, shall pay one per cent. on the gross amount of his sales, subject to all the regulations and exemptions set forth in the tenth chapter of the revised code, entitled "auctions and auctioneers;" but this shall not apply to tobacco warehousemen, who shall pay a license tax of thirty-five dollars a year, nor to persons who keep a warehouse exclusively for the sale of cotton, where all who wish may exhibit cotton for sale, but the person

keeping such warehouse shall pay a license tax of fifty dollars.

SEC. 18. Every commission merchant shall pay a tax of one-eighth of one per cent. on his sales as commission merchant, of all articles not the growth or manufacture of this state: *Provided*, That when spirituous, vinous or malt liquors are sold by commission merchants, they shall pay a tax of five per cent. on their sales of such liquors.

Commission Merchants.

Proviso.

SEC. 19. Every person whose occupation or business is to keep horses or vehicles for hire or to let, shall pay a tax of two dollars for every horse for that purpose, at any time during the year, to be collected by the sheriff quarterly: *Provided*, That this section shall not apply to draymen.

Riding vehicles.

Proviso.

SEC. 20. Every itinerant dentist, medical practitioner, portrait or miniature painter, deguerrean artist and other persons taking likenesses of the human face, ten dollars for each county in which he carries on his business: *Provided*, That such person as shall furnish satisfactory evidence to the sheriff of the county in which he proposes to practice, that he is a resident of the State, and has listed his income as required by law, shall be exempt from the tax imposed in this paragraph.

Itinerant dentists.

Proviso.

SEC. 21. Every person that peddles goods, wares or merchandise, either by land or water, or any drugs, nostrums, or medicines, whether such person shall travel on foot or with a conveyance or otherwise, except manufacturers, or their agents, selling by sample, shall obtain from the commissioners an order to the sheriff to grant him peddler's license, to expire at the end of six months from its date, and the sheriff, on production of a copy of such order certified by the clerk of said commissioners, shall grant such license for his county on receipt of ten dollars tax, to-wit: 1st. That not more than one person shall peddle under the license. 2d. That nothing in this section contained shall prevent any person freely selling live stock, vegetables, fruit, oysters, fish, books, charts, maps, printed music, or the articles of his own growth or manufacture within this state. 3d. That nothing herein contained shall release peddlers from paying the tax

Peddlers.

imposed in this act, on persons who deal in the same species of merchandise, which tax shall be collected or received in the same manner as is the case of other merchants and traders.

Tax on lightning rods.

SEC. 22. Every itinerant who deals in or puts up lightning rods, five dollars for each county in which he carries on business.

Gipsies.

SEC. 23. Every company of gipsies or strolling company of persons who make a support by pretending to tell fortunes or begging, fifty dollars in each county in which they offer to practice any of their craft, recoverable out of any property belonging to any one of the company, but nothing herein contained shall be so construed as to exempt them from indictment or penalties imposed by law.

Drummers.

SEC. 24. Every drummer or travelling agent of any person who shall sell any spirituous, vinous, or malt liquors, goods, wares or merchandise, by sample or otherwise, whether delivered or to be delivered, except agricultural implements and fruit trees, and articles of his own growth or manufacture, shall before making any such sale, obtain a license to sell one year from the public treasurer, by paying said treasurer an annual tax of fifty dollars, but shall not be liable to be taxed in any county because of his sales. Any person violating the provisions of this paragraph shall be deemed guilty of a petty misdemeanor, and upon conviction before any magistrate, shall be fined not exceeding fifty dollars, or imprisoned not exceeding one month, and shall forfeit and pay besides two hundred dollars to the sheriff, to be collected by distress or otherwise, one-half of which shall be accounted for as other taxes, the other half to the use of the informer and the sheriff equally.

Misdemeanor.

Officers of banks.

SEC. 25. The chief officer of banks, including saving's banks and private bankers, shall, in April and October of each year, certify on oath the amount of dividends or profits which have been earned, and shall pay on such dividends five per cent. to the public treasurer; and such insurance companies as are incorporated by this state, shall, in April and October of each year, certify on oath, the amount of

Certificate on oath.

dividends and profits which have been earned, and shall pay on such dividends two per cent. On failure to comply with the provisions of this section, said banks, companies or persons shall pay as taxes one thousand dollars, to be collected by the treasurer of the state.

SEC. 26. Every insurance company not incorporated in this state, doing business herein, shall pay an annual tax of one per cent. to the treasurer of the state, upon the gross receipts derived from the premiums charged for insurance obtained therein, unless the company shall exhibit to the governor, auditor and treasurer a sworn statement of investments in real property situate in this state, or loans secured by mortgage to citizens of the state of an amount equal to one half of such gross receipts, when the tax shall be one-half of one per cent., said tax to be paid quarterly, viz: on the first days of April, July, October and January in each year. Each general agent shall be required on the above named days to make a statement to the treasurer, under oath, that the amount by him returned is a full and correct statement of such quarter. On failure to comply with the provisions of this section, every such company shall pay as a tax two thousand dollars, and the principal agent shall be liable therefor. Every such company shall be required to appoint a general agent, who shall obtain a license from the treasurer before transacting any business therein; and before such license is granted, the applicant shall show to the treasurer his appointment as general agent, under seal of the company, and thereupon the license shall be granted by the payment of one hundred dollars, and such license shall be renewed annually by the payment of said sum. And it shall be the duty of said general agent to furnish each of his sub-agents with a commission authorizing him to do business. And any one found soliciting insurance without such commission, shall be deemed guilty of a misdemeanor, and be fined not less than one thousand dollars and imprisoned not less than ninety days. The agent effecting insurance shall, on the first days of April, July, October and January, make returns to the sheriff of the county in which the insurance

Insurance Companies.

Failure of compliance a misdemeanor.

Commission furnished to sub-agents.

Penalty.

is effected, of all the business done by him during the preceding quarter in said county, and shall pay to him the county tax assessed on such business; the general agent shall also, on the first days of April, July, October and January, make returns to the sheriff of each county of the amount of gross receipts for premiums received from such county for such quarter. It shall further be required of the general agent, or his local agent, to pay to the sheriff of each county the county tax assessed upon the gross receipts of premiums collected in such county, at the time and in the manner as required by the state, and no municipal corporation shall be allowed to add any additional tax: *Provided*, That no county or corporation shall be allowed to tax insurance agents for license. On failure to make returns, or to pay as aforesaid, said agent shall pay twenty-five dollars for each policy effected or negotiated by him in such county.

Provide.

Trader's license.

SEC. 27. No person shall follow any of the trades or professions taxed by this act, or in any other act, imposing taxes on trades and professions and franchises, without first obtaining a license from the sheriff of the county in which the trade or the profession is to be followed, or the franchise enjoyed, or from the treasurer of the state when the treasurer is required to grant licenses. Such license shall give to the person obtaining it the right to practice the trade or profession, or to enjoy the franchise therein specified, in the county of the sheriff by whom it is issued, and in no other, unless the law imposing the tax shall otherwise direct, from its date to the following first day of April: *Provided*, That nothing in this section shall apply to licensed practicing physicians, lawyers or dentists.

Provide.

SEC. 28. The form of the license shall be in substance as follows:

Form of license.

Received this — day of —, 18—, of —, — dollars, of which — dollars is the tax to State of North Carolina, and — dollars is the tax to the county of —, for his license to practice the trade (or profession) of —, until the first day of April next.

Signed,

A. B.,
Sheriff of ——— County

(Countersigned.)

C. D.,

Register of Deeds for ——— County.

SEC. 29. Any person proposing to follow any taxed trade or profession, may take out a license in advance of the time when he proposes to begin such trade or profession, in advance of the expiration of a license already held by him. In such case the license shall be truly dated, and shall specify the time at which it shall begin to be of force, as well as the time when it shall expire, which shall always be on the first days of January, April, July or October.

Rule for taking
out licenses.

SEC. 30. No license issued by the sheriff shall be valid until the same shall have been exhibited to and countersigned by the register of deeds of the county, who shall receive for the service imposed on him by this act in reference to licenses, a fee of twenty-five cents from every person licensed.

License when
valid.

Fee.

SEC. 31. The register of deeds shall keep a book, in which he shall record the name of the person licensed, the trade or profession to be followed, or the franchise to be enjoyed, the date at which it begins to run and the amount of the tax; and he shall, on the third Monday in January, April, July and October, send a certified copy of such record for the quarter last preceding, to the auditor of the state, who shall charge the sheriff with the amount so appearing due. If any register shall fail to perform the duty hereby imposed on him, he shall forfeit to the state a penalty of two hundred dollars, to be recovered of him and the sureties to his official bond, on motion in the superior court for the county of Wake; and on such motion a certified copy of his official bond and the certificate of the auditor of the state, setting forth his failure to make the required return, shall be *prima facie* evidence entitling the state to judgment in the absence of any sufficient defense.

Duty of Register
of Deeds.

Penalty.

Prima facie evi-
dence.

Penalty for failing to take out license.

SEC. 32. Every person who shall practice any trade or profession, or use any franchise taxed by the law of North Carolina, without first having paid the tax and obtained a license as herein required, shall be deemed guilty of a misdemeanor, and shall also forfeit and pay to the state a penalty not to exceed twenty dollars, at the discretion of the court, and in default of the payment of such fine, he may be imprisoned for not more than one month, at the discretion of the court, for every day on which he shall practice such trade or profession, or use such franchise; which penalty the sheriff of the county in which it has occurred shall cause to be recovered before any justice of the peace of the county.

Disposition of money recovered as penalties.

SEC. 33. The sheriff shall immediately report to the register of deeds all sums recovered by him as penalties under this act, and the register shall add three-fourths of each penalty recovered to the record of licenses required to be kept by him; the other fourth the sheriff may retain.

SCHEDULE C.

The taxes embraced in Schedule C, shall be listed and paid as especially therein directed, and shall be for the privilege of carrying on the business or performing the act named:

Express Companies.

SECTION 1. Every express company shall make return to the public treasurer on or before the first Monday in January, April, July and October of each year, of the entire gross earnings and receipts of such company within the state of North Carolina during the three months next preceding. The said report shall be verified by the oath of the chief officer or agent of the company at its principal office in the state. The said company shall, on or before the third Monday of each of the said months, pay on the gross receipts two per cent. for each three months, and for failure to make such report, or pay such tax, the company shall pay as taxes two thousand dollars, to be collected by such sheriff as the public treasurer may designate, by distress or otherwise.

SEC. 2. Every telegraph company doing business in this state shall, at the times and in the manner prescribed in the preceding section, make report of the entire receipts of said company within this state, and pay to the public treasurer two per cent. for each three months, and in case of default of such report or payment, the company shall pay as tax one thousand dollars, to be collected by such sheriff as the public treasurer shall designate, by distress or otherwise.

Telegraph Companies.

SEC. 3. Whenever the seal of the state or of the treasury department, of a notary public, or other public officer, except clerks of the supreme and superior courts, required by law to keep a seal, shall be fixed to any paper, except as is hereinafter excepted, the tax shall be as follows, to be paid by the party applying for the same: For the seal of the state, one dollar, to be collected and paid in the treasury by the private secretary of the governor; for the seal of the state department, fifty cents, to be collected by the secretary of state and paid by him into the treasury; for the seal of the public treasurer, to be collected by him and accounted for as other public moneys, fifty cents; for the seal of the supreme court, fifty cents, to be collected by the clerk and paid by him into the treasury; and for the seal of a notary public or other public officer, twenty-five cents, to be collected and paid over by the said officers to the sheriff of the county where such seal is kept. Said officers shall keep an account of the number of times their seals may be used, and shall deliver to the proper officer a sworn statement thereof. Whenever a scroll is used in the absence of a seal by any of said officers, the said tax shall be on scroll. Seals affixed for the use of any county or state or other government, or used on the commissions of officers in the militia, justices of the peace, or any public officer not having a salary, or under the pension law, or upon any process of court, shall be exempt from taxation. The officers collecting the seal taxes may retain, as compensation, five per cent. Any person receiving taxes under this section and wilfully refusing or neglecting to pay the same as required, shall be guilty of embezzlement, and, on conviction, shall be fined

Tax of seals and scrolls.

Compensation for seal taxes.

When guilty of embezzlement.

Penalty.

not more than five hundred dollars, or imprisoned in the state's prison, in the discretion of the court.

Marriage licenses.

SEC. 4. On each marriage license, fifty cents; and on each marriage contract, mortgage deed and deed in trust to secure creditors where amount secured exceeds three hundred dollars, there shall be a tax of one dollar. The tax on marriage licenses shall be paid to the register of deeds when he issues the license, and the tax on the deeds to the judge of probate of the county in which the instrument is admitted to registration; but if in two or more counties, then in the county in which it is first registered. It shall be the duty of the judge of probate and register of deeds to render annually to the sheriff, during the second week in the month of September, sworn statements in detail of the taxes received by them respectively, under this section, and at the same time pay him the money thus received less four per cent. commissions, and thereupon the sheriff shall file the statement of the judge of probate with the register of deeds, and that of the latter with the clerk of the superior court.

Charters of incorporation.

SEC. 5. On every charter of incorporation of any company granted by the general assembly, other than those for charity, benevolence or literature, where the corporation had power to become incorporate under the provisions of any general law, and on any amendment of every such charter, whether originally granted by the general assembly or secured by letters patent or otherwise, there shall be a tax of twenty-five dollars, paid directly to the public treasurer. No company shall be organized under such special act of incorporation, or derive benefit from any act to amend their charter, without first obtaining a certified copy of such act from the secretary of state, which shall be filed in the office of the said secretary.

Fines.

SEC. 6. Whenever any officer receives or collects a fine, penalty or forfeiture in behalf of the state, he shall within ten days after such reception or collection pay over and account for the same to the clerk of the superior court, who shall forward such fine, penalty or forfeiture, to the treasurer

of the board of education for the benefit of the fund for common schools.

SEC. 7. Any officer convicted of violating the preceding section, shall be guilty of embezzlement, and may be punished not exceeding five years in the state prison, at the discretion of the court. Penalty.

SEC. 8. All laws imposing taxes, the subjects of which are revised in this act, are hereby repealed: *Provided*, That this repeal shall not extend to the provisions of any law, so far as they relate to the taxes listed, or which ought to have been listed, or which may be due previous to the ratification of this act. Repealing clause.
Proviso.

SEC. 9. All laws requiring taxes to be levied by the county commissioners on the first Monday in February of each year are hereby repealed. Repealing clause.

SEC. 10. This act shall be in force from and after its ratification. When act to take effect.

Ratified the 24th day of January, A. D. 1872.

CHAPTER LIX.

AN ACT IN FAVOR OF E. MURRILL, SHERIFF OF ONSLOW.

WHEREAS, Elijah Murrill, sheriff of Onslow county, on his way to, or on his arrival at this city, in due time for a settlement with the public treasurer, of the taxes due from said county, for the year *anno domini* one thousand eight hundred and seventy-one, did lose, and as he verily believes, by theft, the sum of three thousand dollars; and by said loss was rendered unable to make said settlement with the public treasurer within the time prescribed by law; *and whereas*, execution has issued against the said sheriff and his sureties for the full amount of said taxes, and the penalty for failing to settle within the time prescribed by law; *and whereas*, the full amount of taxes due from said county, according to Preamble.

the auditor's account, is three thousand three hundred and thirty-two dollars and fifty-two cents, of which the sum of one thousand three hundred dollars, has been deposited by the said sheriff in the "Citizens' National Bank," of this city, to the credit of the public treasurer, and payable to his order, leaving a balance of two thousand and thirty-two dollars and fifty-five cents, of said taxes still due; therefore,

SECTION 1. *The General Assembly of North Carolina do enact*, That all process against said sheriff and his sureties shall be suspended until the first of December, one thousand eight hundred and seventy-two, and upon his full settlement with the public treasurer at that time for the amount of taxes due from said county for the year *anno domini* one thousand eight hundred and seventy-one, the said judgment and penalty shall be discharged, and said sheriff relieved therefrom.

SEC. 2. This shall be in forced from and after its ratification.

Ratified the 24th day of January, A. D. 1872.

CHAPTER LX.

AN ACT TO PROVIDE FOR THE SERVICE OF PROCESS ISSUED FROM COURTS OF JUSTICES OF THE PEACE IN CIVIL CAUSES WHERE ONE OR MORE OF THE DEFENDANTS MAY RESIDE OUT OF THE COUNTY IN WHICH THE ACTION IS BROUGHT.

SECTION 1. *The General Assembly of North Carolina do enact*, That in all civil causes in courts of justices of the peace where one or more of the defendants may reside in a county other than that of the plaintiff, it shall be lawful for any justice of the peace within the county where such defendant or defendants may reside, upon proof of the handwriting of the justice of the peace who issued the process,

Suspension of process for a limited time

When act to take effect.

Process issuing from a Justice of the Peace in one county on a party in another county rendered valid by endorsement of justice in defendant's county.

to endorse his name on the same, or a duplicate thereof, and such process so endorsed shall be executed in like manner as if it had been originally issued by the justice endorsing it.

SEC. 2. That in all cases referred to in section first of this act, it shall be lawful for the clerk of the superior court of the county in which the action is brought, to certify, under the seal of his court, on the process or a duplicate thereof, that the justice of the peace who issued the same is an acting justice of the peace in his county. And in all such cases it shall be the duty of any sheriff or constable to whom it may be directed, to make an entry of the date of its reception, and to execute the same as now provided by law for the service of civil process in courts of justices of the peace, and return it by mail to the justice of the peace from whose court it issued.

Testimony of the Clerk of Superior Court.

Entry of date.

SEC. 3. That no justice of the peace shall enter a judgment under the provisions of this act against any defendant who may be a non-resident of his county, unless it shall appear that the process was duly served upon him at least two days before the return day of the same.

No process served under two days notice.

SEC. 4. That this act shall be in force from and after its ratification.

When act to take effect.

Ratified the 24th day of January, A. D., 1872.

CHAPTER LXI.

AN ACT SUPPLEMENTAL TO AN ACT ENTITLED AN ACT TO INCORPORATE THE ELIZABETH CITY AND NORFOLK RAILROAD, RATIFIED THE TWENTIETH DAY OF JANUARY, ANNO DOMINI ONE THOUSAND EIGHT HUNDRED AND SEVENTY.

SECTION 1. *The General Assembly of North Carolina do enact*, That the board of directors of said company be and they are hereby authorized to issue bonds and mortgages upon any and all the property of said company to secure loans, advances, acceptances and debts made or incurred by

manner of raising funds for construction of Rail Road.

said company in building said railroad and equipping the same.

Public meeting of subscribers.

SEC. 2. That when the books shall have been opened and the requisite amount of stock has been subscribed, as provided for in the original act, to which this is a supplement, a majority in amount of said subscribers shall call a public meeting, giving notice of time and place in a newspaper, at Elizabeth City, for a period of thirty days, whereupon the subscribers shall elect a board of five directors from among their number at the time of the election, each subscriber being allowed one vote in person or by proxy, for each share subscribed.

Election of Directors.

Vote by shares.

Land condemned.

SEC. 3. That upon failure of said company to secure the the right of way by amicable concession, the land owners mentioned in section sixth of the original act, shall condemn the same in accordance with said act, of such width as they may deem advisable: *Provided*, The land so condemned shall not be less than one hundred feet wide.

Proviso.

When act to be in force.

SEC. 4. This act shall be in force from and after its ratification.

Ratified the 24th day of January, A. D., 1872.

CHAPTER LXII.

AN ACT FOR THE SUPPORT OF THE INSANE ASYLUM OF NORTH CAROLINA FOR THE YEAR ENDING THIRTY-FIRST DECEMBER, ONE THOUSAND EIGHT HUNDRED AND SEVENTY-TWO.

Increase of funds for support of Insane Asylum.

SECTION 1. *The General Assembly of North Carolina do enact*, That the sum of sixty thousand dollars be, and the same is hereby appropriated out of the fund authorized to be levied and collected in accordance with chapter two hundred and twenty-seven, section three, and class one, section one, of an act entitled "An act to raise revenue," ratified fourth day of April, one thousand eight hundred and

seventy-one, to the insane asylum of North Carolina for the support of the same until the close of the fiscal year one thousand eight hundred and seventy-two, and the board of director of the said insane asylum, are hereby authorized and empowered to draw the said amount, or so much thereof as in their judgment may be necessary, and at such times as they may think proper.

Board of Directors authorized to draw money.

SEC. 2. That this act shall be in force from and after its ratification.

When act to take effect.

Ratified the 24th day of January, A. D. 1872.

CHAPTER LXIII.

AN ACT TO PROVIDE FOR THE LAYING OFF AND CONSTRUCTION OF A PUBLIC HIGHWAY IN THE COUNTIES OF BURKE AND MITCHELL.

SECTION 1. *The General Assembly of North Carolina do enact*, That William C. Erwin, Thomas S. Parks and W. M. Winten, of Burke county, and Aden Wiscum, Thomas Nand and Wilson Burleson, of Mitchell county, be and they are hereby appointed commissioners to lay off a public highway from the town of Morganton, crossing the Catawba river at McDowell's ford, thence along or near the Quaker's Meadows road to Carlton's road, thence by such route as said commissioners may deem best, to the Lineville river and over the Blue ridge to the valley of Toe river.

Commissioners.

Location of Road.

SEC. 2. That said commissioners may make at any time or place in either of the counties above named, designated by said W. C. Erwin, and at least two of said commissioners from each of said counties being present, may proceed to lay off said road, and shall so soon as they have determined and marked out the line of said road, submit a report to the county commissioners of each of said counties, describing particularly the location of the road.

Report of Road submitted to County commissioners.

Enforcement of
labor

SEC. 3. That upon the submission of said report, as aforesaid, it shall be the duty of the county commissioners of each of said counties to make, or cause to be made a list of all persons, now liable by law to be compelled to work on public highways, and residing within three miles of the line marked out and described as aforesaid, and to appoint overseers, and apportion said persons among them a wording to location, and with due regard to the cost of constructing the different portions of the road: *Provided*, That no such person shall be compelled to labor on any part of said road more than six miles distant from his place of residence, and said commissioners of each of said counties shall also, within twenty days after the receipt of said report, appoint overseers, and shall furnish a copy of the order appointing them, and a list of the persons liable to work under each, signed by the register of deeds to the sheriffs of their respective counties, whose duty it shall be to serve the same on said overseers within ten days from the delivering to them.

Proviso.

Time specified
for work.

SEC. 4. That said overseers shall not have power to compel any person to work on said proposed road, for more than five consecutive days at any time, nor before the fifteenth day of August, one thousand eight hundred and seventy-two, but it shall be the duty of said overseers to cause such portions of said road as may be assigned to them respectively, to be completed in such manner as other public highways are now required by law to be kept up by overseers, within six months from said fifteenth day of August, and notify the commissioners appointed by this act and residing in the county where the work is done, that such portion of the road is finished, and thereupon such commissioners shall instruct said work, and if they shall report to the county commissioners that it is finished as required by law, then such overseers and persons under him, shall be discharged from further duty under this act, otherwise such overseers to be subject to the penalty hereafter prescribed for failure to perform duties imposed by this act, and also liable to pay one hundred dollars, one half to any person suing for the

Report of work.

Penalties for failure of duty.

same, and the residue for the benefit of the county: *Provided*, That further time may be allowed by the county commissioners of each of said counties to overseers in charge of portions of said highway between Irish Creek and Lineville River.

SEC. 5. That overseers appointed and persons liable to work under the provisions of this act shall be subject in the same manner to the penalties and punishments imposed by any law upon other overseers of public highways and persons liable to work thereon, and the proceedings in all cases shall be as so prescribed by law, all persons living within three miles being liable to work on said road aforesaid.

SEC. 6. That the county commissioners of each of said counties shall have power to levy and collect a special tax not to exceed five hundred dollars, to be expended on that portion of the road in their respective counties between Irish Creek and Lineville River, and such of the commissioners appointed by this act as reside in the county making the subscription or levying the tax as aforesaid, or a majority of them, shall have power to make contracts for the expenditure of the same, and their orders endorsed by the chairman of the board of county commissioners for the amount so collected shall be paid by county treasurers of the said counties, and county treasurers of said counties shall have the custody of any sums subscribed by individuals in their respective counties, which shall be expended in the same manner.

SEC. 7. That the commissioners appointed by the first section of the [this] act may, at any time, make oath to the number of days that they have necessarily spent in the performance of the duties imposed by this act before the county commissioners of their respective counties, and it shall be the duty of such last named commissioners to allow them a compensation of not more than five nor less than two dollars per day, and to give an order on the county treasurer for the amount to be paid out of any funds, other than those collected for common schools, in his hands.

SEC. 8. That any person that may consider himself

Proviso.

Overseers of Roads subject to the same laws as other public servants.

Special Tax to be levied.

Power to make contracts.

County Treasurer hold subscriptions.

Compensation for Commissioners.

Petition for
damages.

damaged by the construction of said road over his land, may file his petition before the county commissioners of the county where his land lies, who, after investigation and taking into consideration the benefit of said road to the land, may allow him damage, if just, to be paid by the county: *Provided*, This act shall not go into effect till ratified by a majority of the people of Burke and Mitchell counties.

Proviso.

When act to be in
force.

SEC. 9. This act shall be in force from and after its ratification.

Ratified the 24th day of January, A. D., 1872.

CHAPTER LXIV.

AN ACT TO AMEND "AN ACT TO RESTORE AND REINSTATE RECORDS OF THE SEVERAL COURTS IN THE STATE, DESTROYED DURING THE LATE WAR."

Amendment to
act for restora-
tion of records.

SECTION 1. *The General Assembly of North Carolina do enact*, That the act entitled "An act to restore and reinstate records of the several courts in the state destroyed by fire and otherwise during the late war," and ratified the twenty-second day of February, *anno domini* one thousand eight hundred and seventy-one, be amended by inserting in the ninth line of the same, after the words sixty-five, the words "by any executor or administrator with a will annexed or."

Provisions of this
act include all
records lost both
since and during
the war.

SEC. 2. That the provisions of said act of which this is amendatory, shall extend to records of court which have been destroyed by fire or otherwise since as well as during the war, and to any deed of conveyance, paper writing, or other *bona fide* evidence of title executed before the destruction of said records and prior to the ratification of this act.

Act to be in force

SEC. 3. This act shall be in force from its ratification.
Ratified the 25th day of January, A. D. 1872.

CHAPTER LXV.

AN ACT TO AUTHORIZE THE COMMISSIONERS OF NASH COUNTY TO
LEVY A SPECIAL TAX.

SECTION 1. *The General Assembly of North Carolina do enact*, That the commissioners of Nash county be authorized to levy and collect in the same manner as other taxes are levied and collected, a special tax sufficient for defraying the expenses of erecting a wall around the public jail and a dwelling for the keeper within the same, and for such other purposes as may be deemed necessary for establishing a better system of securing prisoners, due regard being had for the equation of tax between the poll and real estate, as established by the constitution.

Special tax to be levied for jail purposes.

SEC. 2. This act shall be in force from and after its ratification.

When act to take effect.

Ratified the 25th day of January, A. D. 1872.

CHAPTER LXVI.

AN ACT TO EMPOWER THE COUNTY COMMISSIONERS TO EXTEND
THE TIME FOR COLLECTING THE COUNTY TAXES.

SECTION 1. *The General Assembly of North Carolina do enact*, That a majority of any board of county commissioners may extend the time for the collection and settlement of the county taxes in their respective counties, to such time as they may deem expedient, not to extend beyond first day of May, in the year following that in which the taxes were levied.

Extension of time for collecting taxes.

SEC. 2. This act shall be in force from and after its ratification.

When act to take effect.

Ratified the 25th day of January, A. D. 1872.

CHAPTER LXVII.

AN ACT CONCERNING REPRESENTATION IN THE HOUSE OF REPRESENTATIVES.

Manner of electing members for the House of Representatives until the new apportionment.

SECTION 1. *The General Assembly of North Carolina do enact*, That until the general assembly shall have made the new apportionment, as provided by the constitution and laws of North Carolina, the house of representatives shall be composed of members elected from the counties in the following manner, to wit: The county of Wake shall elect four members; the county of New Hanover shall elect three members; the counties of Buncombe, Caswell, Chatham, Craven, Cumberland, Davidson, Duplin, Edgecombe, Granville, Guilford, Halifax, Iredell, Johnston, Mecklenburg, Orange, Pitt, Randolph, Robeson, Rockingham, Rowan, Sampson, Warren, Wayne and Wilkes shall elect two members each; and the counties of Alamance, Alexander, Alleghany, Anson, Ashe, Beaufort, Bertie, Bladen, Brunswick, Burke, Cabarrus, Caldwell, Camden, Carteret, Catawba, Cherokee, Chowan, Clay, Cleveland, Columbus, Currituck, Dare, Davie, Forsyth, Franklin, Gaston, Gates, Greene, Harnett, Haywood, Henderson, Hertford, Hyde, Jackson, Jones, Lenoir, Lincoln, Macon, Madison, Martin, McDowell, Mitchell, Montgomery, Moore, Nash, Northampton, Onslow, Pasquotank, Perquimans, Polk, Richmond, Rutherford, Stanley, Stokes, Surry, Swain, Transylvania, Tyrrell, Union, Washington, Watauga, Wilson, Yadkin and Yancey shall elect one member each.

When act to be in force.

SEC. 2. This act shall be in force from and after its ratification.

Ratified the 25th day of January, A. D., 1872.

CHAPTER LXVIII.

AN ACT TO PREVENT THE RECKLESS DESTRUCTION OF DEER.

SECTION 1. *The General Assembly of North Carolina do enact*, That if any person shall hunt for with gun, or chase with a dog, or shall kill or destroy any deer running wild in the woods, between the fifteenth day of January and the first day of September next thereafter ensuing, unless in an enclosure surrounded by a sufficient fence, at least five feet high, and where such person shall have a lawful right so to do, the person so offending shall pay a penalty of fifty dollars for each and every offense to any person or persons suing for the same, one-half for his use and the other for the use of the public school or schools of the school district or districts wherein the offense is committed, and the offender shall be deemed guilty of a misdemeanor, and on conviction shall pay a fine of not less than ten dollars, or be imprisoned, or both, at the discretion of the court.

Penalty for hunting or killing Deer.

SEC. 2. In the event that no one has brought a prior suit, and prosecuted the same in good faith for the penalty prescribed in the preceding section, it shall be the duty of the school committee of any township where the said offense shall be committed, to sue for the same, and the whole of their recovery shall be to themselves for the use of their school district. And it shall further be their duty to cause any person so offending to be prosecuted, by indictment, for such offense.

School Committees can sue for damages.

SEC. 3. That the provisions of this act shall not apply to the county of Johnston and all other counties east of the Wilmington and Weldon Railroad, or through which the Wilmington and Weldon Railroad passes, nor to the counties of Madison, Yancey, Cumberland, Harnett, Columbus, Anson and Sampson.

Counties through which W. W. R. Road passes are exempt.

SEC. 4. This act shall be in force from and after its ratification.

Act to take effect.

Ratified the 26th day of January, A. D. 1872.

CHAPTER LXIX.

AN ACT TO AUTHORIZE THE SECRETARY OF STATE TO ISSUE A
PATENT TO LUNSFORD CAHOON, OF ELIZABETH CITY, NORTH
CAROLINA.

Preamble.

WHEREAS, Luther C. Dashell, late sheriff of the county of Pasquotank, did on the third day of September, one thousand eight hundred and sixty-six, expose to public sale, in the said county of Pasquotank, a certain piece of land with the improvements thereon for the payment of the state and county taxes due thereon, which amounted to nine dollars, and which said land is described as situate on Shepherd street, in the town of Elizabeth City, in said county, and no one appearing and bidding for the said land, it was purchased by the said Dashell, sheriff aforesaid, for the state, and the said Dashell, sheriff aforesaid, executed a deed, dated the fifteenth day of June, one thousand eight hundred and sixty-eight, for said land and improvements thereon, to the state, which said deed is of record in the office of the secretary of state; therefore

Deed of patent
issued.

SECTION 1. *The General Assembly of North Carolina do enact*, That upon the payment to the treasurer of the state, the aforementioned sum of nine dollars, with twenty-five per cent. additional, and the usual fees of the secretary of state, the said secretary of state is thereby authorized and required to issue a deed or patent for the above described land, to Lunsford Cahoon, of Elizabeth City, the present occupant thereof, with all the privileges, improvements and appurtenances thereunto belonging or appertaining.

When act to take
effect.

SEC. 2. This act shall take effect from its ratification.

Ratified the 26th day of January, A. D. 1872.

CHAPTER LXX.

AN ACT TO AUTHORIZE THE COMMISSIONERS OF STOKES COUNTY
TO ISSUE BONDS.

SECTION 1. *The General Assembly of North Carolina do enact.* That in order to liquidate the just debts of the county of Stokes, the commissioners of said county are hereby authorized to issue coupon bonds, not exceeding in amount the sum of twenty-five (\$25,000) thousand dollars, in denominations of not more than one thousand dollars, nor less than twenty dollars: *Provided however,* That the said county commissioners shall fund no claims against the county about which doubts may be entertained relative to their validity on account of their connection with the rebellion.

Bonds issued for county debt.

Proviso.

SEC. 2. That said bonds shall run for ten years with interest at the rate of six per cent. per annum, payable annually, and the coupons on said bonds shall be receivable in payment of the taxes for any fiscal year in which they may fall due.

Manner of payment.

SEC. 3. That said bonds and the coupons thereof shall be signed by the chairman of the board of county commissioners and countersigned by the clerk of the board, which latter officer shall keep a book suitable for the purpose, in which he shall keep an accurate account of the number of bonds issued, their amounts, and to whom issued, the amount of bonds and coupons received and cancelled, so that upon an inspection of his said book, the true state of the county debt may be seen, for which service he may receive a reasonable compensation to be fixed by the board.

Chairman and Clerk of Board must sign bonds.

Book kept for the purpose.

SEC. 4. That said county commissioners shall have the privilege to redeem the said bonds at any time after the expiration of one year, and it shall be the duty of the county treasurer, each year to purchase one-tenth of said bonds then outstanding, or, by order of said county commissioners, set apart as a sinking fund one-tenth of the amount sufficient to redeem said bonds when they shall fall due.

Redemption of bonds.

Sinking fund.

For the security
required.

SEC. 5. That it shall be lawful for said county commissioners, if in their discretion the official bond of the county treasurer shall be insufficient to protect the county in the discharge of his duties hereby enjoined, to require him to give further and sufficient security.

Tax levied for re-
deeming bonds.

SEC. 6. That said commissioners of Stokes county are hereby authorized to levy a tax of one fifth (1-5) of one per cent. on the real and personal property of said county, and sixty (60) cents on each poll for the special purpose of redeeming said bonds.

When act to take
effect.

SEC. 7. That this act shall be in force from and after its ratification.

Ratified the 26th day of January, A. D. 1872.

CHAPTER LXXI.

AN ACT TO CREATE A FINANCE COMMITTEE IN THE SEVERAL
COUNTIES OF THE STATE.

Finance Commit-
tee.

SECTION 1. *The General Assembly of North Carolina do enact*, That the justices of the peace in the several counties of the state may assemble at the courthouse in their respective counties on the first Monday in each and every year, and a majority of them being present, they may elect, by ballot, three discreet, intelligent, tax-paying citizens, to be known as the "Finance Committee," whose duty it shall be to inquire into, investigate and report by public advertisement, at the court house, and one public place in each township of the county, or in a newspaper, at their option, if one be published in the county, a detailed and itemized account of the condition of the county finances, together with any other information appertaining to any funds, misappropriation of county funds or any malfeasance in office by any county officers.

SEC. 2. For the purpose of rendering the first section of this act effectual the said finance committee shall have power and authority to send for persons and papers, and any person failing to obey their summons, or produce promptly any paper relating or supposed to relate to any matter appertaining to the duties of the finance committee, such person or persons shall be deemed guilty of a misdemeanor, and, upon conviction in the superior court, shall be fined and imprisoned at the discretion of the court.

Power of Committee.

Misdemeanor.

SEC. 3. It shall be the duty of said "finance committee" to make and publish, as herein directed, their report on or before the first Monday in July of each and every year.

Committee report.

SEC. 4. The members of said finance committee before entering upon their duties shall, before the clerk of the superior court, subscribe to the following oath or affirmation: "I, A. B., do solemnly swear (or affirm) that I will diligently inquire into all matters relating to the receipts and disbursements of county funds and a true report make, without partiality, so help me God."

Oath administered by Clerk of Superior Court.

SEC. 5. The said committee shall receive a compensation of five dollars each for the performance of their duties imposed by this act.

Remuneration.

SEC. 6. This act shall be in force from and after its ratification.

Act to take effect.

Ratified the 26th day of January, A. D., 1872.

CHAPTER LXXII.

AN ACT TO AMEND "AN ACT AUTHORIZING THE COMMISSIONERS OF BERTIE COUNTY TO ISSUE BONDS," RATIFIED TWENTIETH DAY OF DECEMBER, ANNO DOMINI ONE THOUSAND EIGHT HUNDRED AND SEVENTY-ONE.

SECTION 1. *The General Assembly of North Carolina do enact*, That section sixth of an act entitled "An act to Amendment.

authorize the commissioners of Bertie county to issue bonds," ratified the twentieth day of December, one thousand eight hundred and seventy one, be amended by inserting after the word "auditors" in said section, the words "a majority of whom shall constitute a quorum and be authorized to act," so that the section will read as follows :

Board of Audi-
tors.

SEC. 6. That Jonathan S. Taylor, S. B. Spruill, Lorenzo S. Webb, Joseph B. Cherry and P. H. Winston be appointed a board of auditors, (a majority of whom shall constitute a quorum and be authorized to act,) to audit the claims.

When act to be in
force.

SEC. 2. That this act shall be in force from and after its ratification.

Ratified the 26th day of January, A. D. 1872.

CHAPTER LXXIII.

AN ACT TO ALLOW THE COMMISSIONERS OF ANSON COUNTY TO
LEVY A SPECIAL TAX.

Special tax levied
for debt.

SECTION 1. *The General Assembly of North Carolina do enact*, That the commissioners of Anson county be authorized and empowered to levy a special tax, at the same time with the other levies, on all the taxable property of the county for the year one thousand eight hundred and seventy-two to be applied to the payment of the interest on the bonded debt of said county and the repairing of the court house and the jail therein. The said tax shall not exceed twenty-five thousand dollars, and shall be collected in the same manner and within the same time as the other taxes levied in said county.

manner of collec-
tion.

When act to be in
force.

SEC. 2. This act shall be in force from and after its ratification.

Ratified the 27th day of January, A. D. 1872.

CHAPTER LXXIV.

AN ACT TO AMEND THE CODE OF CIVIL PROCEDURE.

WHEREAS, Doubts are entertained whether the several clauses of executions, provided for in chapter one, title eleven of the code of civil procedure, should issue from the superior courts of the county where the judgment is docketed when such judgment is docketed in a county other than the one in which the same was rendered, or from the superior court of the county in which judgment was rendered; therefore, to remove and settle all doubts:

SECTION 1. *The General Assembly of North Carolina do enact*, That the judgments of the several courts in this state shall be docketed as now provided by law; but the executions provided in chapter one, of title eleven, of the code of civil procedure, and all writs of *venditioni exponas*, and other process for the enforcement of such judgments shall issue under seal of the court only from the court in which the judgment for the enforcement of which such execution, processes or other final process, or any of them may issue, was rendered; and such executions or other final process against the property of the defendant or defendants, or any one or more of them, may be issued to any county in which such last mentioned judgment may be docketed; and such executions or other final process may issue to two or more counties at the same time as now provided by law, and executions against the person of the defendant or defendants, or any of them, may issue to any one or more counties in the state: and the returns of all such executions or other final process shall be made to the court of the county from which the same is issued.

SEC. 2. That when any such execution shall be returned, as herein provided, the return of the sheriff or other officer shall be noted by the clerk on the execution docket; and when the same shall be returned satisfied, or partially satisfied, it shall be the duty of the clerk of the court to which the same is returned to send a copy of such last

Preamble.

Judgments docketed as now provided by law.

Executives and Venditioni Exponas writs shall issue under seal of court rendering judgment.

To any county in which judgment is docketed.

To two or more counties at same time.

Clerk of County Court to which return is made to send copy to Clerk Superior Court of each county where the judgment is docketed.

mentioned return, under his hand, to the clerk of the superior court of each county in which such judgment is docketed, whose duty it shall be to note such copy in his execution docket, opposite said judgment, and file said copy with the transcript of the docket of said judgment in his office.

Executions here-
tofore issued
from court ren-
dering judgment,
or from court in
which docketed,
or both.

SEC. 3. That in all cases where such executions have been, or are now issued, either from the court of the county in which such judgments were rendered, or from the court of the county in which such judgment was docketed, other than that in which such judgment was rendered, or from both of such last mentioned courts, whether at the same time or otherwise, all sales of property and all other things made and done and all liabilities and penalties incurred by sheriffs, or other officers or persons, under and in pursuance of such last mentioned executions, shall be valid and binding upon all such sheriffs, other officers or persons, to all intents and purposes, and to the same extent as if such executions or other processes for the enforcement of said judgments had issued in all respects regularly: *Provided nevertheless*, That such executions or other such process, were and are in other respects than those herein specified, regular and valid.

Shall be valid and
binding on all
officers.

Proviso.

Notice to amerced
sheriffs under
hand and seal of
clerk of court
where judgment
is entered suffi-
cient.

SEC. 4. That in all cases where any sheriff, or other officer, shall be amerced for failure to make due returns of any execution, or other writ or process, placed in his hands, or for any default whatsoever in office, and judgment *nisi* or otherwise, for the penalty or forfeiture in such case made and provided, shall be entered, it shall be sufficient to give such sheriff notice, according to law, under the hand of the clerk and seal of the court, where such judgment may be entered of a motion for a judgment absolute, or for execution as the case may be, and no other notice, summons or suit shall be necessary to enforce the same; and such proceedings shall be deemed and held in aid of a suit or other proceedings already instituted in court.

Ratified the 27th day of January, A. D. 1872.

CHAPTER LXXV.

AN ACT TO REGULATE PROCEEDINGS IN MANDAMUS.

SECTION 1. *The General Assembly of North Carolina do enact*, That all applications for writs of mandamus shall be made by summons and complaint.

Applications for writs of mandamus.

SEC. 2. That in all applications when the plaintiff seeks to enforce a money demand the summons shall issue and be made returnable as is prescribed by the second section of chapter seventy-six, of the laws of one thousand eight hundred and sixty-eight and one thousand eight hundred and sixty-nine, entitled "An act to suspend the code of civil procedure in certain cases," and that the subsequent pleadings and practice in such cases shall be the same as is prescribed for civil actions by the third, fourth and fifth sections of said act.

Manner in which summons for applications for writs of mandamus shall issue and be returnable when the enforcement of a money demand is sought.

SEC. 3. That in all applications when the plaintiff seeks other relief than the enforcement of the payment of a money demand, the summons shall be made returnable before a judge of the superior or supreme court at chambers, or in term at a day specified in the summons, not less than ten days after the service of the summons and complaint upon the defendant, at which time the court, except for good cause shown, shall proceed to hear and determine the cause, both as to law and fact: *Provided however*, That in cases arising under this section where issue of fact is raised by the pleadings, it shall be the duty of the court, upon the application of either party, to continue the same till said issue of fact can be decided by a jury of the next regular term of the court.

Manner in which summons for applications for writs of mandamus shall be made returnable when other relief than the enforcement of a money demand is sought.

Proviso.

SEC. 4. That all complaints in applications for mandamus shall be verified according to law.

Complaints to be verified.

SEC. 5. That all laws and clauses of laws in conflict with this act are hereby repealed: *Provided however*, That this act shall not apply to actions commenced before the ratification of this act.

Repealing clause.

Proviso.

When act to be in force.

SEC. 6. That this act shall be in force from and after its ratification.

Ratified the 29th day of January, A. D. 1872.

CHAPTER LXXVI.

AN ACT TO INCORPORATE THE YADKIN AND DAN RIVER RAILROAD COMPANY.

Location of railroad.

SECTION 1. *The General Assembly of North Carolina do enact*, That for the purpose of constructing a railroad of one or more tracks from some point at or near the town of Salisbury, in the county of Rowan, running in the vicinity of Stokesburg, in Stokes county, to some point on the northern boundary of the state to the Virginia line, east of Mayo river, to be hereafter determined on in the opinion of the company hereinafter named, or their legal representatives, as the nature of the route will permit: Dr. T. W. Keen, M. L. Holmes, J. H. Thompson, Dr. J. H. Shelton, Henry W. Fries, Col. Henry Marshall, S. S. Wall, Col. Benjamin Bailey, John D. Watkins and George L. Aiken and their associates, successors and assigns, are constituted a company, and are hereby incorporated under the name and style of the "Yadkin and Dan River Railroad Company,"

Corporators.

Corporate name.

Capital stock.

Corporate rights.

with a capital stock of five hundred thousand dollars, with the privilege of increasing the same to five millions of dollars, which shall have a corporate existence as a body politic for the space of ninety-nine years, and by that name may sue and be sued, plead and be impleaded in every court in the State of North Carolina, and may have and use a common seal, and shall be capable of purchasing, holding, leasing and conveying estate, real and personal and mixed, and acquiring the same by gift or devise, so far as may be necessary for the purpose herein contemplated. And the said company may enjoy all the rights and immunities which

other corporate bodies may lawfully exercise, and may make all necessary by-laws and regulations for its government, not inconsistent with the constitution and laws of the State of North Carolina, and of the United States.

SEC. 2. That the capital stock of said company may be created by subscription on the part of individuals, municipal and other corporations, in shares of the value of one hundred dollars each, which may be made in lands, timber, work or money, as may be stipulated. Subscription to stock.

SEC. 3. That books of subscription to the capital stock of said company may be opened by the following commissioners, to wit: at Salisbury, by Dr. T. W. Keen and M. L. Holmes; in Lexington, by J. H. Thompson and Dr. J. H. Shelton; in Winston, by H. W. Fries and Col. Henry Marshall; at Walnut Cove, by S. S. Wall and Col. Benjamin Bailey; and in Madison, by John D. Watkins; and in Leaksville, by George L. Aiken, and by such other persons and at such places as they or a majority of them may direct, and that twenty days notice of the opening of said books shall be given in one or more newspapers of the state; and furthermore, that said commissioners, or any five of them, may, at any time after said books have been kept open for the space of thirty days, and the sum of twenty thousand dollars has been subscribed to the capital stock of said company and five per cent. paid thereon, have power to call together the subscribers to said stock for the purpose of completing the organization of said company, and the said subscribers shall be and are hereby declared incorporated into a company by the said name and style of the "Yadkin and Dan River Railroad Company." Books of subscription.

SEC. 4. That said company may hold annual meetings of the stockholders, and oftener, if necessary, and at its organization and the annual meetings subsequent thereto, twelve directors shall be elected by the stockholders to hold office for one year or until their successors shall be elected, and any of said meetings shall have power to make or alter the by-laws of the company: *Provided*, That all such meetings of the stockholders, a majority of all the stock subscribed Annual meetings.
Directors.
Term of time.
Proviso.

shall be represented in person or by proxy, which proxy shall be verified in the manner prescribed by the by-laws of the company, and each share thus represented shall be entitled to one vote on all questions. That it shall be the duty of the directors to elect one of their number as president of said company and to fill all vacancies in the board.

President.

SEC. 5. That after the company shall be organized as aforesaid, the board of directors shall proceed to locate and have constructed, as speedy as possible, on the route they may find most practicable, a railroad, to a point on the northern boundary of the state of North Carolina to the Virginia line, east of Mayo river, to be fixed by them; that the said company shall have the exclusive right of conveyance or transportation of persons, goods, merchandise and produce on the said railroad, to be by them constructed, at such charges as may be fixed by a majority of its directors; that said company may assign or lease their franchise or their rights of transportation on said road to any person, persons or corporation.

Exclusive right of conveyance.

Further powers.

Land condemned.

SEC. 6. That said company shall have the power to use and enforce the payment of stock subscribed as was heretofore granted to the North Carolina Railroad Company by the charter of incorporation, and shall have power to condemn lands for the use of the company, when a contract of purchase cannot be made with the owner thereof, to the same extent and in the same manner, and under the same rules, regulations and restrictions as the said North Carolina Railroad Company was authorized to do by the act of incorporation.

Contracts binding

SEC. 7. That all contracts made and entered into by the president or superintendent of the company, whether with or without seal, shall be binding upon said company, and the president shall, under the instruction of the board of directors, issue certificates of stock to stockholders, which shall be transferable by the by-laws of the company; *Provided*, That the gauge of said road shall be four feet, eight inches and a half, the same as the North Carolina Railroad.

Proviso.

SEC. 8. That the said corporation formed under this act shall have power, from time to time, to borrow such sums of money as may be necessary for completing and finishing or operating their railroad, and to issue and dispose of their bonds for any amount so borrowed, and to mortgage their corporate property and franchise to secure the payment of any debt contracted by the company for the purpose aforesaid; and the directors of the company may confer on any holder of any bond, issued for money borrowed as aforesaid, the right to convert the principal due, or owing thereon, into stock of said company at any time not exceeding ten years from the date of the bond, under such regulations as the directors may see fit to adopt.

Manner of raising funds for railroad

SEC. 9. That this act shall be in force from and after its ratification.

When act to take effect.

Ratified the 29th day of January, A. D. 1872.

CHAPTER LXXVII.

AN ACT TO ESTABLISH A NEW COUNTY BY THE NAME OF GRAHAM.

SECTION 1. *The General Assembly of North Carolina do enact*, That all that part of Cherokee county included within the following bounds, to wit: Beginning at a stake at the mouth of Slick Rock creek on the lines of North Carolina and Tennessee, and running with said line to the top of Unacoe mountain, thence to the Laurel-top, thence with divide mountain between Beaver Dam, Hanging-Dog and Snowbird creeks, to the top of the mountain between Snowbird creek and Valley river and Cheoee; thence east, with the meanders of the mountain to the top of the same, to the line of Cherokee and Macon counties, thence northward with that line to the bank of Tennessee river, thence with the meanders of the bank of said river to the

Boundary.

beginning; be and the same is hereby created into a separate and distinct county, by the name of Graham, with all the rights, privileges and immunities incident and belonging to the other counties in this state: *Provided*, Said county shall not be entitled to a representative under the apportionment made by this general assembly.

Proviso.

When act to be in force.

SEC. 2. This act shall be in force from and after its ratification.

Ratified the 30th day of January, A. D., 1872.

CHAPTER LXXVIII.

AN ACT TO CHARTER THE UPPER DIVISION OF THE YADKIN RAILROAD COMPANY.

Corporate name.

SECTION 1. *The General Assembly of North Carolina do enact*, That authority is hereby granted for the formation of a railroad company to be styled the "Upper Division of the Yadkin Railroad Company," for the construction of a railroad from Salisbury to Wilkesboro', through the counties of Rowan, Davie, Yadkin or Iredell and Wilkes, and thence to the Tennessee or Virginia line.

Location of railroad.

Former charter to be made applicable to the Upper Division of Yadkin Railroad Company.

SEC. 2. That all the provisions of the charter heretofore granted to the Yadkin Railroad Company, so far as the same may be applicable to the purpose of organizing the companies herein authorized, are hereby re-enacted as a charter for the benefit of the Upper Division of the Yadkin Railroad Company, except as far as relates to the designation of persons as commissioners of subscription; and John I. Shaver, Nath'l. Boyden, J. S. McCubbins, J. C. Foard, John M. Clement, Winfield Little, John E. Gough, Josiah Cowles, W. H. Reeves, N. R. Gwyn, James Gwyn, T. B. Parks, James W. Foote, George H. Brown, J. F. Finley, James C. Horton, and P. Horton are hereby designated and appointed commissioners of subscription for said company with similar

and equal powers and duties as regards said company as those conferred upon the commissioners of subscription of the Yadkin Railroad Company.

SEC. 3. That after the organization of the company herein authorized the same may at any time be consolidated with the Yadkin Railroad Company upon such terms as may be agreed upon between the two companies, and thereafter the consolidated corporation shall be known as the "Yadkin, Railroad Company," with the privileges granted in either or both of the charters of said companies. Consolidation.

SEC. 4. This act shall take effect from and after the date of its ratification. When act to take effect.

Ratified the 30th day of January, A. D. 1872.

CHAPTER LXXIX.

AN ACT TO CHANGE SAMPSON COUNTY FROM THE FOURTH TO THE FIFTH JUDICIAL DISTRICT.

SECTION 1. *The General Assembly of North Carolina do enact,* That the county of Sampson be changed from the fourth judicial district and placed in the fifth judicial district, and that the term of said court be held on the fourteenth Monday after the fourth Monday of February and August. Change of District.

SEC. 2. That all process, executions and subpoenas made returnable to the terms of the courts as now fixed by law, be made by this act returnable to the said court at the time fixed by this act. Process, &c., now returnable.

SEC. 3. That the judge holding the spring term of said court shall receive a certificate for one hundred dollars, to be paid by the treasurer of the state out of any moneys not otherwise appropriated, and for the fall term of said court, he shall receive a certificate of like sum to be paid by the treasurer of said county. Must receive compensation.

Defendants to appear.

SEC. 4. That all defendants bound by recognizance to said court, shall be bound to appear at term of said court as now fixed by this act.

When act to take effect.

SEC. 5. That this act be in force from and after its ratification.

Ratified the 30th day of January, A. D. 1872.

CHAPTER LXXX.

AN ACT IN RELATION TO VACANT LANDS IN MACON AND OTHER COUNTIES.

Agency abolished.

SECTION 1. *The General Assembly of North Carolina do enact*, That the office of "Agent of the state for the collection of Cherokee land bonds," be and the same is hereby abolished.

Agent required to deliver to Register of Deeds all papers, &c.

SEC. 2. That said agent, or his legal representatives, be and he is hereby directed to deliver to the register of deeds, in the several counties of Clay, Cherokee, Macon, Jackson, Swain and Haywood respectively, such books, records and papers as relate to the bonds aforesaid, in said counties respectively.

Register of Deeds to be agents for their respective counties.

SEC. 3. That the said registers of deeds for the counties aforesaid shall be *ex officio* agents of the state for the collection of Cherokee land bonds, and shall perform all the duties and be liable to all the penalties that are now prescribed by law for the agent of the state for the collection of Cherokee land bonds; that they shall be required to give bonds in such amounts not to exceed five hundred dollars, and such security as may be prescribed by the commissioners of their several counties.

Bond and security. Entry takers held accountable.

SEC. 4. That the entry takers in the counties aforesaid shall account to and with the register of deeds in the same way and manner as they heretofore accounted with the state's agent aforesaid.

SEC. 5. That the registers of deeds aforesaid shall every six months account to and turn over any moneys or bonds that may have been received by them, by virtue of their office as agents aforesaid, to the treasurer of their respective counties, who shall expend the same under the orders of the commissioners of the several counties in the same manner as is now prescribed by law.

Register of Deeds to account with County Treasurers.

SEC. 6. That for the services required by this act the registers of deeds shall have such compensation as may be fixed by the boards of commissioners of their respective counties, not to be less than the amount heretofore paid to the state agent.

Compensation allowed to Registers of Deeds.

SEC. 7. This act shall be in force from its ratification.

When act to take effect

Ratified the 31st day of January, A. D. 1872.

CHAPTER LXXXI.

AN ACT FOR THE RELIEF OF BRYAN KELLUM.

WHEREAS, Bryan Kellum, of the county of Onslow, and state of North Carolina, on the first of January, *anno Domini* one thousand eight hundred and sixty-one, made an entry of a certain tract of land in said county, and by a grant, number one thousand nine hundred and twenty-one, issued the twenty-eighth day of December, *anno domini* one thousand eight hundred and sixty-one, by Rufus H. Page, secretary of state, by command of his excellency Henry T. Clark, governor of the state of North Carolina, and duly recorded in the office of the secretary of state, the title of said land, to-wit: three hundred acres, upon the payment of the purchase money therefor was conveyed to the said Bryan Kellum in fee simple; *and whereas*, by a survey under the authority of his excellency Johnathan Worth, governor of the state of North Carolina, it appears that said lands, or the greater part thereof, are included in a tract of land known

Preamble.

as the White Oak Swamp, the property of the board of education, and therefore, not subject to entry as aforesaid ; *and whereas*, the said Kellum has not only paid the full marketable value of said lands, at the date of said grant, but also by canals and extensive ditching and other expensive labor in draining and clearing the same, has conferred much additional value upon the adjoining lands belonging to the board of education ; therefore,

Confirmation of title to land.

SECTION 1. *The General Assembly of North Carolina do enact*, That the board of education are hereby authorized by suitable and sufficient conveyance, to confirm and perfect the title of the said Bryan Kellum in fee simple to so much of said land as is covered by and described in grant number one thousand nine hundred and twenty-one, above referred to, and recorded in the office of the secretary of state of North Carolina.

When act to take effect.

SEC. 2. That this act shall be in force from its ratification. Ratified the 31st day of January, A. D. 1872.

CHAPTER LXXXII.

AN ACT TO AUTHORIZE THE COUNTY COMMISSIONERS OF BRUNSWICK COUNTY TO ISSUE BONDS.

Coupon bonds issued.

SECTION 1. *The General Assembly of North Carolina do enact*, That the board of commissioners of Brunswick county be and the same are hereby authorized to issue coupon bonds in an amount not exceeding ten thousand dollars (\$10,000,) in denominations of not less than five dollars (\$5,) nor more than five hundred dollars (\$500,) which said bonds shall not bear interest at a greater rate than six (6) per cent. per annum.

Funding debts.

SEC. 2. That it shall not be lawful for said board of commissioners to issue said bonds to contract any new debts against the county, nor for any other purpose than the

funding of such debts and liabilities of the said county as may be outstanding at the time of the ratification of this act.

SEC. 3. That the said bonds so issued shall be payable as follows: The first one-fifth of the principal of said bonds at the expiration of one year from the date at which they are issued, and each succeeding like amount shall be payable in like manner at intervals of one year from the time of the payment of the issue immediately preceding it.

Manner of payment.

SEC. 4. The coupons calling for the interest upon said bonds each year shall be received by the sheriff in payment of county taxes.

Interest on bonds.

SEC. 5. That said commissioners of Brunswick county are hereby authorized to levy each year until said bonds and coupons are paid twenty-five (25) cents on the one hundred dollars valuation of the real and personal property of said county for the special purpose of redeeming said bonds, to be used for no other purpose.

Redemption of bonds.

SEC. 6. That the said bonds and the coupons thereof shall be signed by the chairman of the board of commissioners and countersigned by the clerk of the board, which latter officer shall keep a book suitable for the purpose in which he shall keep an accurate account of the number of bonds issued, their amounts, and to whom issued, the amount of bonds and coupons received and cancelled, so that upon an inspection of his book the true state of the county debt may be seen, for which services he may receive a reasonable compensation to be fixed by the board.

Book of accounts to be kept by Clerk of the Board.

SEC. 7. That this act shall be in force from and after its ratification.

Compensation.

When act to be in force.

Ratified the 31st day of January, A. D. 1872.

CHAPTER LXXXIII.

AN ACT TO REPEAL SECTION ELEVEN OF CHAPTER ONE HUNDRED AND EIGHTY-FIVE, ACTS OF ONE THOUSAND EIGHT HUNDRED AND SIXTY-EIGHT, AND ONE THOUSAND EIGHT HUNDRED AND SIXTY-NINE.

Repeal.

SECTION 1. *The General Assembly of North Carolina do enact*, That section eleven, chapter one hundred and eighty-five, acts of one thousand eight hundred and sixty-eight and one thousand eight hundred and sixty-nine, ratified twelfth day of April, *anno domini* one thousand eight hundred and sixty-nine, be and the same is hereby repealed.

Place for holding meetings of trustees.

SEC. 2. That it may be lawful for the township board of trustees to rent at a moderate rate, some room near the centre of their township to hold its sessions in: *Provided*, That nothing contained in this act shall be construed to interfere with property that has been purchased by township trustees before the passage of this act.

Provide.;

SEC. 3. This act shall be in force from its ratification.

Ratified the 31st day of January, A. D. 1872.

When act to take effect.

CHAPTER LXXXIV.

AN ACT TO REVIVE AN ACT PASSED AT THE SESSION OF ONE THOUSAND EIGHT HUNDRED AND SIXTY AND ONE THOUSAND EIGHT HUNDRED AND SIXTY-ONE, TO ESTABLISH THE LINE BETWEEN THE COUNTIES OF WAYNE AND GREENE.

Commissioners.

SECTION 1. *The General Assembly of North Carolina do enact*, That Macon E. Dail, William A. Darden, Jr., E. G. Copeland and Nathan Edgerton, be and they are hereby appointed commissioners to run and establish the dividing line between the counties of Wayne and Greene, beginning

at the corner in the north prong of Bear creek (or at a point as near said corner as may be established) and run a north course to Great Contentnea creek, according to an act of the general assembly passed at the session of one thousand seven hundred and seventy-nine, entitled an act for dividing the county of Dobbs; and that the line thus established by said commissioners, shall be held and considered as the dividing line between the said counties of Wayne and Greene.

Description of boundary line.

SEC. 2. That should said commissioners be unable to agree upon said line, they shall have the power to choose a fifth person who shall act as an umpire, and the decision of a majority shall be final: *Provided*, A report of said decision be returned to the commissioners for each of said counties and confirmed by the same.

Umpire chosen.

Proviso.

SEC. 3. This act shall be in force from and after its ratification.

When act to be in force.

Ratified the 31st day of January, A. D. 1872.

CHAPTER LXXXV.

AN ACT CONCERNING THE POORHOUSE OF THE COUNTY OF SURRY.

SECTION 1. *The General Assembly of North Carolina do enact*, That the board of commissioners of the county of Surry shall be authorized and empowered to sell the old poorhouse and the lands on which the same is situated, near Rockford, and to select and purchase a site for a new poorhouse in the vicinity of Dobson: *Provided*, That before selecting a site and locating the new poorhouse, the said commissioners shall give the same notice and proceed as is now provided by law.

Commissioners to sell present poor house.

Proviso.

SEC. 2. This act shall be in force from and after its ratification.

When act to be in force.

Ratified the 31st day of January, A. D. 1872.

CHAPTER LXXXVI.

AN ACT TO ENABLE THE COMMISSIONERS OF BURKE AND MCDOWELL COUNTIES TO CONSOLIDATE THE DEBTS OF THEIR RESPECTIVE COUNTIES.

Bonds issued.

SECTION 1. *The General Assembly of North Carolina do enact*, That the commissioners of Burke and McDowell be and are hereby authorized and empowered to issue bonds of denominations not less than one hundred dollars, signed by the chairman of the board, payable in thirty years and bearing interest at the rate of six per cent. per annum, for the purpose of absorbing the outstanding indebtedness of their respective counties, whether such indebtedness be now evidenced by bonds or otherwise.

Classification of debts.

SEC. 2. That the commissioners of said county shall have power to classify the debts of their respective counties, and to give to such creditors as may be willing to accept the terms offered by them, such per cent. on their claims, in the bonds to be issued as aforesaid, as in their judgment may seem just and reasonable, in view of the price at which any particular class of claims have sold in the market of the county.

When act to take effect.

SEC. 3. That this act shall go into effect from and after its ratification.

Ratified the 31st day of January, A. D. 1872.

CHAPTER LXXXVII.

AN ACT DECLARING YADKIN RIVER A LAWFUL FENCE.

SECTION 1. *The General Assembly of North Carolina do enact*, That the Yadkin river from the Wilkes line through

the counties of Yadkin, Surry and Forsyth, to the Forsyth and Davie lines, be and it is hereby declared a lawful fence.

Be it further enacted, That this act shall be in force from and after the first day of April next.

Ratified the 31st day of January, A. D. 1872.

When act to take effect.

CHAPTER LXXXVIII.

AN ACT TO AUTHORIZE THE WESTERN RAILROAD COMPANY TO OPEN TO NAVIGATION THE WATERS OF LOWER LITTLE RIVER AND ITS TRIBUTARIES.

SECTION 1. *The General Assembly of North Carolina do enact,* That the president and directors of the Western Railroad Company are hereby invested with full power and authority to open and keep open to navigation the waters of lower Little river and its tributaries from Little river station on said railroad to the source of said stream and its tributaries.

Navigation of the waters of Little River.

SEC. 2. That the said president and directors, the consent of the stockholders having been first obtained, are hereby authorized to appropriate of its funds, not exceeding fifty thousand dollars, for the purpose mentioned in the first section of this act; and they may open books of subscription for preference or common stock, make a specific or general mortgage, and issue bonds thereunder, or make any other evidences of debt to such an amount as may be found sufficient for the purpose of this act, and make provision for the payment of the same. The amount expended may be kept in either special or general account, and the earnings appropriated either specially or generally amongst the special or general stockholders, as may be prescribed by said president and directors.

Appropriation of funds.

Books of subscription.

Manner of raising funds.

SEC. 3. That said company is hereby authorized to construct and operate all such steam vessels and other crafts as may be necessary to carry the freight and passengers on

Construction of Steam Vessels.

Rates charged.

said stream and its tributaries, fixing the rates for the same, or they may let the same to others charging tolls or rents thereon, but the income shall at no time exceed (12) twelve per cent. upon the capital invested after deducting the annual cost, repairs and operation.

Power given to company to construct all necessary works.

SEC. 4. That said company is hereby specially invested with power to construct such dams, locks, canals, sluices and other works as may be necessary and expedient to carry out the purpose of this act, and that the rights, franchise and privileges of said company shall extend from the bridge of said railroad over lower Little river up said stream and all the creeks running thence to their source.

Extension of privileges.

Condemnation of materials for its use.

SEC. 5. The president and directors of said company shall have power to agree with the owners of any land, timber, rock, sluices or other material, and for operating the same, for the purchase thereof, and in case of disagreement, or for other causes, the same cannot be had, then and in that case they may proceed to condemn the same as provided in the charter of said company to condemn for railroad purposes, and shall acquire title to the same in like manner.

Repealing clause.

SEC. 6. That all laws and clauses of laws in conflict with this act are hereby repealed.

When act to take effect.

SEC. 7. That this act shall be in force from and after its ratification.

Ratified the 1st day of February, A. D. 1872.

CHAPTER LXXXIX.

AN ACT IN RELATION TO STOKES, ROCKINGHAM AND CHOWAN COUNTY COMMISSIONERS.

Compensation for overseers of roads.

SECTION 1. *The General Assembly of North Carolina do enact,* That it shall be lawful for the commissioners of Stokes, Rockingham and Chowan counties, in their discretion, to allow overseers of roads a compensation not exceed-

ing two dollars per day for each day that they are employed summoning hands and working the roads.

SEC. 2. This act shall be in force from and after its ratification. When act to be in force.

Ratified 1st day of February, A. D. 1872.

CHAPTER XC.

AN ACT TO INCORPORATE THE BREVARD AND WAYNESVILLE TURNPIKE COMPANY.

SECTION 1. *The General Assembly of North Carolina do enact,* That B. C. Lankford, T. L. Gash, and George Orr, of Transylvania county, and Walter W. Lenoir, Joseph Cathey and J. C. L. Gudger, of Haywood county, their associates, successors and assigns, are hereby constituted a body politic and corporate under the name and title of the Brevard and Waynesville Turnpike Company, with power to make by-laws for its government, provide for election of directors and all other officers, and with all other privileges and incidents belonging to corporations under chapter ninety six of the revised code, or any other general law of the state which has been or may at any time be passed. Corporate name.

SEC. 2. Said corporation shall have power to make and keep in repair, a turnpike road, running by the most direct, practicable and convenient route from Brevard, in the county of Transylvania, to the Rock House, on the head waters of the East Fork of Pigeon River, in the county of Haywood. The dimensions and mode of construction of said road may be determined by the directors of the company. Corporate rights

In no place shall the road be steeper than one foot in twelve, and shall be sixteen feet wide on level land, and twelve feet wide on side digging. Location of Road.

SEC. 3. Whenever land or right of way shall be needed by said company, for the purpose of constructing its road to Gauge of road.

supply stone, gravel or other material, if the parties cannot agree, the same may be taken at a valuation to be made by a commission of five freeholders, to be chosen by two justices of the peace of the county where the land lies, or by the county commissioners thereof, which valuation made on oath shall be recorded in the register's book, and payment of the valuation or tender thereof; or in case the owner does not reside in the county, on deposit of the same in the office of the clerk of the superior court; the said land or right of way so valued, shall vest in the company so long as it shall be used for the purposes thereof. Either party may appeal from the decision of the commissioners, but no proceedings under this section shall hinder or delay the company, or delay the work. Ten days' notice shall be given of the time and place of the meeting of the commissioners, or if the owner of the land does not reside in the county, then ten days' notice by advertisement on the land, and in a newspaper in the county, or if there be none, then at the door of the court house and two other public places in the county, shall be sufficient. The right of condemnation shall not, except for materials for construction, include more than thirty feet on each side of the centre of the road, and for toll houses not exceeding one acre: *Provided*, That this right of condemnation shall not include any yard, garden or burial ground: *Provided further*, That the company may use such portions of any public road on said route from Brevard to the Rock House on the head waters of the East Fork of Pigeon, in the county of Haywood, as may be, in their opinion, convenient and necessary.

SEC. 4. Said company shall have power to issue certificates of stocks to an amount not to exceed twenty thousand dollars, in shares of twenty dollars each.

SEC. 5. That the tolls on said road shall not exceed the following: Six horse wagon, eighty cents; five horse wagon, seventy cents; four horse wagon, sixty cents; three horse wagon, fifty cents; two horse wagon, forty cents; one horse wagon, twenty-five cents; two horse carriage, eighty cents; two horse buggy, fifty cents; one horse buggy, sukly or

Valuation of land.

Oath recorded in register's book.

Parties may appeal.

Public notice given for the meeting of commissioners.

Right of condemnation.

Proviso.

Further Proviso.

Certificates of stock.

Rates of Toll.

other vehicle, thirty cents; man and horse, ten cents; loose horses, five cents; cattle and hogs, three cents each.

SEC. 6. This act shall be in force from its ratification.

When act to take effect.

Ratified the 1st day of February, A. D. 1872.

CHAPTER XCI.

AN ACT TO AMEND SECTION EIGHT OF CHAPTER FORTY-FOUR OF THE REVISED CODE ENTITLED "EVIDENCE."

SECTION 1. *The General Assembly of North Carolina do enact,* That section 8 of chapter 44 of the revised code be amended so as to read as follows, viz: Copies of all official bonds or writings recorded or filed as records in any court, or lodged in the office of the governor, treasurer, auditor, secretary of state or adjutant general, shall be as competent evidence as the originals, when certified by the keeper of such records or writings under the seal of his office, when there is such seal, or under his hand when there is no such seal, unless the court shall order the production of the original. Amendment.

Official writings recorded in Court taken as evidence.

SEC. 2. That this act shall take effect from and after its ratification. When act to take effect.

Ratified the 1st day of February, A. D. 1872.

CHAPTER XCII.

AN ACT TO PUNISH THE OBTAINING OF GOODS BY FALSE PRETENCES.

SECTION 1. *The General Assembly of North Carolina do enact,* That every person who, with intent to defraud or cheat another shall, designedly, by color of any false token Penitentiary offences.

or writing, or by any other false pretence, obtain the signature of any person or persons to any written instrument, the false making of which would be punishable as forgery or obtain from any person or persons any money, goods, wares, merchandise or other property or valuable thing whatsoever, shall, on conviction thereof, be punishable by fine not less than one hundred dollars nor more than one thousand dollars, or by imprisonment in the penitentiary of the state for a term not less than one year nor more than five years, or both, at the discretion of the court.

When act to take effect.

SEC. 2. That this act shall be in force from and after its ratification.

Ratified the 1st day of February, A. D. 1872.

CHAPTER XCIII.

AN ACT FOR EXCHANGING THE STOCKS OF THE STATE FOR BONDS WITH WHICH SUCH STOCKS WERE OBTAINED, AND FOR OTHER PURPOSES.

Exchange of stock publicly advertised.

SECTION 1. *The General Assembly of North Carolina do enact*, That the public treasurer and attorney general shall advertise for six months in such newspapers as they may select, and invite proposals for an exchange of the stocks held by the state in any railroad or other corporation, for the bonds by which the state acquired such stocks, or any other bonds of the state (not special tax) where the stock is not specially pledged for the redemption of bonds issued to such corporation; such bids shall be opened on a day appointed, and those terms be accepted which may be most advantageous for the state: *Provided*, That in no event shall any of the said stocks be exchanged for less than their par value, or for less than three bonds of same nominal value, issued in aid of Chatham Railroad, January first, one

Proviso.

thousand eight hundred and sixty-three: and, *provided* Further Proviso. *further*, No stock in the North Carolina Railroad, shall be exchanged, unless in the same offer it is proposed to take twenty shares of stock in the North Carolina Railroad, ten shares in the Atlantic and North Carolina Railroad, and twenty shares in the Western North Carolina Railroad Company (Eastern Division), and to pay therefor two bonds of one thousand dollars each of the state, issued to the North Carolina Railroad under acts of one thousand eight hundred and forty-eight and one thousand eight hundred and forty-nine, chapter (82) eighty-two, or one thousand eight hundred and fifty-four and one thousand eight hundred and fifty-five, chapter thirty-two, one bond of one thousand dollars, issued to the Atlantic and North Carolina Railroad, under acts one thousand eight hundred and fifty-four and one thousand eight hundred and fifty-five, chapter two hundred and thirty-two, or acts of one thousand eight hundred and fifty-six, chapter seventy-four and seventy-six, and two bonds of one thousand dollars, issued to the Western North Carolina Railroad (Eastern Division), acts of one thousand eight hundred and sixty-six and one thousand eight hundred and sixty-seven, chapter one hundred and six, or in the afore-said proportion.

SEC. 2. That any railroad or other corporation, which has heretofore received bonds of the state in exchange for bonds of said corporation or person holding such state bonds, shall be entitled to a surrender of a bond of such corporation, upon the return to the treasury of any state bond of equal amount, issued under the acts of the general assembly or ordinances of the convention authorizing such exchange, and upon a return of all bonds issued under any particular act or ordinance, the corporation shall be entitled to a cancellation and surrender of any mortgage executed to the state for securing payment of such corporation bonds, or state bonds; coupons on said bonds may be exchanged in like manner and cut off and retained on either side to make equality.

Surrender of
bonds.

SEC. 3. To facilitate the exchange proposed in this act, the state does hereby relinquish all claim for stock in the

Relinquishment
of stock.

Western Railroad above one million one hundred thousand dollars, and surrender to the said company two hundred and twenty-five thousand dollars coupons now in state treasury, withheld on a former exchange of company bonds for stock in said railroad; and also the state does hereby relinquish all claims to stock in said company above six hundred thousand dollars upon the return to the treasury of the five hundred thousand dollars of Wilmington, Charlotte and Rutherford Company bonds and coupons heretofore issued to said Western Railroad Company: *Provided*, That any person acquiring a share of state stock in said corporation, shall be entitled to all rights and privileges with the private stockholders in voting and in the election of the directors, whose number shall be determined by the stockholders of said company. The state also relinquishes all claim to stock in the Western North Carolina Railroad above four millions of dollars.

Proviso.

Manner of appointing directors

SEC. 4. That as soon as the proportion of shares of stock for which the state appoints one director in any corporation, is exchanged, the right of the state to appoint such director shall cease and determine, and one director, to be selected by lot, shall be deducted from the number appointed on the part of the state, and upon acceptance of this act by any corporation and such guarantees given for its fulfillment as shall be deemed sufficient by the treasurer and attorney general, all further right to representation by the state, either by directors or proxy, shall cease and determine.

Bonds cancelled.

SEC. 5. That as soon as may be practicable, the public treasurer shall receive the bonds offered in exchange, and in the presence of the auditor and attorney general, shall cancel the same. It shall also be his duty to transfer the stocks and execute such conveyances of the other interest hereinbefore mentioned as shall be deemed necessary, such conveyance to be in a form approved by the attorney general.

Duty of Treasurer

Auditor to make entries of transaction.

SEC. 6. It shall be the duty of the auditor to make a minute of what shall be done by the treasurer in the premises, and to make therefrom such entries in the books of his office as may secure a just accountability on the part

of the treasurer because of the transaction hereinbefore mentioned. Special reports.

SEC. 7. The public treasurer shall make special reports upon the subject of this act to the general assembly at every session. When act to take effect.

SEC. 8. That this act shall be in force from and after its ratification.

Ratified the 1st day of February, A. D. 1872.

CHAPTER XCIV.

AN ACT IN REGARD TO DELINQUENT SHERIFFS AND TAX COLLECTORS, AND TO VALIDATE CERTAIN ACTS OF THE STATE TREASURER.

SECTION 1. *The General Assembly of North Carolina do enact*, That settlements hereafter made by the treasurer of the state with sheriffs and tax collectors, after default, where the whole amount of taxes and other public dues have been paid into the treasury are declared valid. all costs to be paid by said sheriffs or collector. Settlements made after default, when amount is paid, are valid.

SEC. 2. The treasurer of the state, with the advice and approval of the attorney general, is authorized, when in their judgment it may be best to secure the interests of the state, and will not lose any lien held by the state, to grant indulgences to defendants in execution, and likewise to bid for in behalf of the state and purchase property of said defendants, where deemed necessary to secure the payment of the public dues. Treasurer of State may grant indulgences.

SEC. 3. Any property purchased as aforesaid shall be sold within two years at public auction, after thirty days advertisement, on such terms as may be agreed on by the treasurer, with the approval of the attorney general, and a report to the general assembly shall be made by the treasurer of all such purchases and sales. Public sale of property.

When act to be in force.

SEC. 4. This act shall be in force from and after its ratification.

Ratified the 1st day of February, A. D. 1872.

CHAPTER XCV.

AN ACT TO AMEND CHAPTER TWO HUNDRED AND THIRTY-THREE (233) LAWS OF ONE THOUSAND EIGHT HUNDRED AND SEVENTY AND ONE THOUSAND EIGHT HUNDRED AND SEVENTY ONE, ENTITLED "AN ACT REGULATING THE APPOINTMENT OF GUARDIANS AD LITEM."

Amendments.

SECTION 1. *The General Assembly of North Carolina do enact*, That section one of chapter two hundred and thirty-three of the laws of one thousand eight hundred and seventy and one thousand eight hundred and seventy-one, be amended by inserting after the word "infants," whenever it occurs, the words, "idiots, lunatics, and persons *non compos mentis*."

SEC. 2. That sections two and three of said chapter two hundred and thirty-three be amended so as to read as follows: "SEC. 2. That in all actions and special proceedings in any of the courts of this state, whenever any or all of the defendants are infants, idiots, lunatics, or persons *non compos mentis*, said infants, idiots, lunatics, or persons *non compos mentis* shall defend by their general or testamentary guardian, if they have any within this state, whether said infants, idiots, lunatics, or persons *non compos mentis* are residents or non-residents of this state; and if said infants, idiots, lunatics, or persons *non compos mentis*, have no general or testamentary guardian within this state, and any of the defendants in said action or special proceeding shall have been summoned, and a copy of the complaint has been served on them, or any of them, or failed according to law, then it shall be lawful for the court, wherein said action or

Summons.

special proceeding is pending, upon motion of any of the parties to the said action or special proceeding, to appoint some discreet person to act as guardian *ad litem*, to defend in behalf of such infant, or infants, idiots, lunatics, or persons *non compos mentis*, and such guardian so appointed shall, if the cause in which he is appointed be a civil action, file his answer to the complaint within the time required for other defendants, unless such time be extended by the court for good cause, and if the cause in which he is so appointed be a special proceeding, a copy of the complaint, with the summons, shall be served on said guardian *ad litem*, and after twenty days' notice of said summons and complaint in such special proceeding, and after answer filed as above prescribed in such civil action, the court may proceed in the cause to final judgment and decree therein in the same manner as if there had been personal service upon the said infant, idiot, lunatic, or person *non compos mentis*, defendants, and any decree or judgment in the case shall conclude the infant, idiot, lunatic, or person *non compos mentis*, defendants as effectually, as if he or they had been personally summoned.

Court may appoint guardian "ad litem" for defendant.

Guardian "ad litem" to file answer.

Final judgment.

SEC. 3. That section three of said chapter be stricken out and repealed.

Repealing clause.

SEC. 4. That sections four, five and six be re-numbered respectively sections three, four and five.

Re-numbered.

SEC. 5. That this act shall not operate in any way to effect the validity or regularity of the appointment of any guardian *ad litem* heretofore made according to the provisions of said chapter two hundred and twenty-three, herein amended.

Certain appointments not validated.

SEC. 6. That this act shall be in force and take effect from and after the first day of February, one thousand eight hundred and seventy-two.

When act to be in force.

Ratified the 1st day of February, A. D. 1872.

CHAPTER XCVI.

AN ACT TO AUTHORIZE THE COUNTY COMMISSIONERS OF UNION COUNTY TO LEVY A SPECIAL TAX.

Preamble.

WHEREAS, The county of Union heretofore, in the year one thousand eight hundred and fifty-seven, took twelve hundred shares of stock in the Wilmington, Charlotte and Rutherford Railroad Company, and in payment therefor issued her coupon bonds to the amount of sixty-thousand dollars, running twenty years and bearing seven per cent. interest, payable semi-annually; and whereas, a sufficient fund to meet the accruing interest on said bonds and at the same time pay the current expenses of the county cannot be raised in said county at the rates of taxation now provided by law: *Now, therefore,* for the purpose of paying said interest, and to provide the sinking fund for the ultimate extinguishment of the principal of the debt at maturity:

Special tax levied annually.

SECTION 1. *The General Assembly of North Carolina do enact,* That the county commissioners of Union county be and they are hereby authorized and empowered to levy annually until said debt be paid, a special tax on all the subjects of taxation in said county and on the taxable polls, not to exceed one-half of one per cent. upon the property and upon the poll, a sum not to exceed the constitutional equations, the tax upon the property being taken as the basis.

Liquidation of debt.

SEC. 2. That the sum hereby authorized to be levied shall be employed exclusively for the liquidation of the debt and interest aforesaid, and the said commissioners are hereby authorized and empowered to buy in or compound for any of said bonds, at any sum not exceeding their par value, and the sum or sums so expended, verified on oath, shall be credited against the fund hereby authorized to be raised.

When act. to take effect.

SEC. 3. That this act shall be in force from and after its ratification.

Ratified the 1st day of February, A. D. 1872.

CHAPTER XCVII.

AN ACT TO LEGALIZE THE ACTS OF THE JUSTICES OF ROWAN
AND OTHER COUNTIES.

WHEREAS, The justices of the peace of Rowan and other counties elected in August, one thousand eight hundred and sixty-nine, and those appointed to fill vacancies since occurring, failed to qualify in accordance with the provisions of the code of civil procedure, but were qualified before the board of commissioners for said county, in consequence of which doubts have arisen respecting the legality of their acts as justices of the peace:

Preamble.

SECTION 1. *The General Assembly of North Carolina do enact*, That the acts of said justices of the peace are hereby declared legal and authoritative in all respects so far as they would have been had said justices been qualified according to the provisions of the code of civil procedure.

Legality of Justices of the Peace.

SEC. 2. That this act take effect from the date of its ratification.

When act to take effect.

Ratified the 1st day of February, A. D. 1872.

CHAPTER XCVIII.

AN ACT MAKING AN APPROPRIATION FOR THE DEAF, DUMB AND
BLIND ASYLUM.

SECTION 1. *The General Assembly of North Carolina do enact*, That the sum of forty-five thousand dollars is hereby appropriated for the purpose of defraying the expenses of the deaf, dumb and blind asylum during the current fiscal year commencing the first day of January, one thousand eight hundred and seventy-two, and ending the first day of January, one thousand eight hundred and seventy-three.

Expenses of the Deaf Dumb and Blind Asylum.

Treasurer of
Asylum to re-
ceive the money.

SEC. 2. That the public treasurer is hereby authorized and directed to pay the said amount of forty-five thousand dollars to the treasurer of said asylum out of any moneys in the treasury not otherwise appropriated: *Provided*, That the amount above stated be drawn quarterly in advance in equal instalments: *And provided further*, That five thousand dollars of this appropriation, or so much thereof as may be necessary shall be expended in making needful repairs.

Proviso.

Further proviso.

When act to be in
force.

SEC. 3. This act shall be in force from and after its ratification.

Ratified the 1st day of February, A. D. 1872.

CHAPTER XCIX.

AN ACT SUPPLEMENTAL TO "AN ACT TO RAISE REVENUE."

Revenue raised.

SECTION 1. *The General Assembly of North Carolina do enact*, That the secretary of state is hereby directed to have printed three thousand copies of the act passed at the present session of the general assembly entitled "an act to raise revenue," also three thousand copies of an act passed at the present session of the general assembly, entitled "an act to provide for the collection of taxes by the state and by the several counties of the state, on property, polls and income.

Collection of
taxes.

Distribution of
copies.

SEC. 2. The secretary of state shall, as soon as practicable, distribute the said copies among all officers whose duty it is to carry into effect any portion of the said acts.

Members of Gen-
eral Assembly to
receive copies.

SEC. 3. The secretary of state shall also have printed five copies each, of said acts, for each member of this general assembly.

When act to take
effect.

SEC. 4. This act shall take effect from and after its ratification.

Ratified the 1st day of February, A. D. 1872.

CHAPTER C.

AN ACT TO PREVENT THE CATCHING OF OYSTERS, &C., IN FAR CREEK, COUNTY OF HYDE.

SECTION 1. *The General Assembly of North Carolina do enact*, That if any person or persons shall catch or take oysters from the waters of Far Creek, in the Lake Landing Township, county of Hyde, between the first day of May and the first day of October, he or they shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than fifty dollars, or imprisoned not more than sixty days, at the discretion of the court. Catching oysters forbidden

SEC. 2. This act shall be in force from and after its ratification. When act to be in force.

Ratified the 2d day of February, A. D. 1872.

CHAPTER CI.

AN ACT CONCERNING THE ANNEXATION OF A PORTION OF MACON COUNTY TO THE COUNTY OF CLAY.

SECTION 1. *The General Assembly of North Carolina do enact*, That all that portion of Macon county comprised within the following boundaries, (viz:) Beginning on the line of Cherokee and Macon counties, on the top of the mountain dividing the waters of Fires creek and Choga creek and runs an easterly direction with a ridge dividing the waters of Clear creek and Choga creek to Nantahala river, thence up said river to the mouth of Buck's creek, thence with the ridge dividing the waters of Buck's creek and Nantahala river to the top of the Blue ridge, thence an easterly direction with the top of said ridge to the Georgia line, thence west with said Georgia line to the corner of Boundary line.

Clay county, be and the same is hereby annexed to and shall form a part of Clay county.

Repealing clause.

SEC. 2. That all laws and clauses of laws coming in conflict with this act are hereby repealed.

When act to take effect.

SEC. 3. That this act shall be in force from and after its ratification.

Ratified the 2d day of February, A. D. 1872.

CHAPTER CII.

AN ACT TO AMEND SECTION SEVEN OF CHAPTER TWO HUNDRED AND THIRTY-SEVEN OF THE LAWS OF ONE THOUSAND EIGHT HUNDRED AND SIXTY-EIGHT AND ONE THOUSAND EIGHT HUNDRED AND SIXTY-NINE, ENTITLED AN ACT TO ESTABLISH THE DAYS AND PLACES FOR SELLING REAL PROPERTY UNDER EXECUTION AND FOR OTHER PURPOSES.

Amendment.

SECTION 1. *The General Assembly of North Carolina do enact*, That section seven of chapter two hundred and thirty-seven, above recited, be amended by adding thereto the words "*Provided*, That this section shall not apply to the sales of lands by executors and administrators for the creation of assets, nor to sales made for partition between tenants in common, unless so directed and ordered by the court."

Sales under former act valid.

SEC. 2. That all such sales of administrators and executors, or sales for partition, which since the ratification of the chapter herein amended, have been made by order of a competent court, at a place otherwise than the court house door, shall not be impeached, set aside or invalidate therefor in any action or proceeding to that intent.

When act to be in force.

SEC. 3. This act shall be in force from and after its ratification.

Ratified the 2d day of February, A. D. 1872.

CHAPTER CIII.

AN ACT AMENDATORY OF AN ACT ENTITLED "AN ACT TO INCORPORATE THE HIWASSEE AND CHEOAH TURNPIKE COMPANY."

SECTION 1. *The General Assembly of North Carolina do enact*, That the Hiwassee and Cheoah Turnpike Company, in Cherokee county, is hereby authorized and empowered to build a branch to the main trunk road, beginning at the most practicable point on Snowbird creek, and running by the most practicable route to the Junaluskee farm, on the waters of Cheoah river in said county.

Branch road.

Location of road.

SEC. 2. That the said Hiwassee and Cheoah Turnpike Company, in laying off and constructing the aforesaid branch road, shall have all the powers, privileges and franchises, and be subject to all restrictions as provided in chapter one hundred and twenty-seven public laws of North Carolina, ratified the sixteenth day of March, one thousand eight hundred and seventy-one.

Powers and privileges.

SEC. 3. This act shall be in force from and after its ratification.

When act to take effect.

Ratified the 2d day of February, A. D. 1872.

CHAPTER CIV.

AN ACT TO AUTHORIZE THE COMMISSIONERS OF WATAUGA COUNTY TO LEVY A SPECIAL TAX.

SECTION 1. *The General Assembly of North Carolina do enact*, That the commissioners of Watauga county are hereby empowered to levy a special tax, to be collected as other county taxes, for the purpose of paying the indebtedness of the county, said tax not to exceed two thousand dollars:

Special Tax.

Proviso.

Provided, That in levying this tax a tax upon the poll shall be levied in conformity with constitutional equation.

When act to be
in force.

SEC. 2. This act shall be in force from and after its ratification.

Ratified the 2d day of February, A. D. 1872.

CHAPTER CV.

AN ACT TO AUTHORIZE THE COUNTY COMMISSIONERS OF CAMDEN COUNTY TO LEVY A SPECIAL TAX.

Special tax.

SECTION 1. *The General Assembly of North Carolina do enact*, That the county commissioners of Camden county are hereby authorized and empowered to levy and collect, for the year one thousand eight hundred and seventy-two, a special tax not to exceed fifteen hundred dollars, to be applied to the liquidation of the outstanding debt of said county.

when act to take
effect.

SEC. 2. That this act shall be in force from and after its ratification.

Ratified the 2d day of February, A. D. 1872.

CHAPTER CVI.

“AN ACT TO LEGALIZE THE ACTS OF GEORGE D. RAYNOLDS, ENTRY TAKER, FOR CLAIMS OF LAND IN ALLEGHANY COUNTY.

Acts legalized.

SECTION 1. *The General Assembly of North Carolina do enact*, That all the acts of George D. Raynolds as entry taker for claims of lands in Alleghany county, had and done by him as entry taker since April, one thousand eight hundred and sixty-eight, be and the same are hereby legalized:

Provided, That nothing within contained shall be so construed as to invalidate the acts of F. M. Mitchell, register of deeds for said county, who by law was at the time regularly authorized to act as entry taker for said county. Proviso.

SEC. 2. This act shall be in force from and after its ratification. When act to take effect.

Ratified the 2d day of February, A. D. 1872.

CHAPTER CVII.

AN ACT FOR THE RELIEF OF THE TAX PAYERS OF MADISON COUNTY.

SECTION 1. *The General Assembly of North Carolina do enact*, That the sheriff of Madison county in collecting the county taxes for the year one thousand eight hundred and seventy-two, shall receive at its face value in payment of such county taxes from any one who received the same, any receipts for township taxes in said county unlawfully levied and collected in the year one thousand eight hundred and seventy. Taxes.

SEC. 2. This act shall be in force from and after its ratification. When act to take effect.

Ratified the 2d day of February, A. D. 1872.

CHAPTER CVIII.

AN ACT SUPPLEMENTARY TO AND AMENDATORY OF AN ACT ENTITLED AN ACT TO RAISE REVENUE, RATIFIED THE — DAY OF JANUARY, ANNO DOMINI ONE THOUSAND EIGHT HUNDRED AND SEVENTY-TWO, AND FOR OTHER PURPOSES.

SECTION 1. *The General Assembly of North Carolina do enact*, That an act entitled an act to raise revenue, ratified the — day of January, *anno domini* one thousand eight Amendment.

hundred and seventy-two, be amended as follows: "In the statement of schedule B, preceding section one of said schedule, strike out the words city, town or other municipal corporation."

Limitation of tax. SEC. 2. That no city, town or other municipal corporation shall have power to impose, levy or collect any greater tax on real and personal property than one and one-half per centum on the value thereof: *Provided*, That this act shall not apply to cities or towns where a rate of taxation is fixed in their charters.

When act to be in force. SEC. 3. This act shall be in force from its ratification. Ratified the 2d day of February, A. D. 1872.

CHAPTER CIX.

AN ACT TO CHANGE THE LINE BETWEEN THE COUNTIES OF ASHE AND ALLEGHANY.

Annexation of certain portions of Ashe to Alleghany county. SECTION 1. *The General Assembly of North Carolina do enact*, That all that portion of Ashe county comprised within the following boundaries, viz: Beginning in the gap of the Ridge between Joshua Long's and Henry Bare's, running with the top of said ridge to the Grandfather Mountain and the Blue Ridge, be and the same is hereby annexed to and shall form a part of Alleghany county.

When act to take effect. SEC. 2.. That this act shall be in force from and after its ratification.

Ratified the 2d day of February, A. D. 1872.

CHAPTER CX.

AN ACT TO REGULATE THE TIMES OF HOLDING THE TERMS OF THE SUPERIOR COURTS IN THE ELEVENTH AND TWELFTH JUDICIAL DISTRICTS.

SECTION 1. *The General Assembly of North Carolina do enact*, That the eleventh judicial district shall be composed of the counties of Watanga, McDowell, Henderson, Buncombe, Madison, Yancey, Mitchell and Burke, and the twelfth judicial district shall be composed of the counties of Graham, Cherokee, Clay, Macon, Swain, Jackson, Haywood and Transylvania.

Counties composing 11th & 12th Judicial Districts.

SEC. 2. That the times of holding the terms of the superior court in the eleventh judicial district, shall be as follows, to-wit: Watanga county on the second Monday of March and August of each year; McDowell county on the fourth Monday of March and August; Henderson county on the second Monday after the fourth Monday in March and August; Buncombe county on the fourth Monday after the fourth Monday in March and August; Madison county on the sixth Monday after the fourth Monday in March and August; Yancey county on the eighth Monday after the fourth Monday in March and August; Mitchell county on the tenth Monday after the fourth Monday in March and August; Burke county on the twelfth Monday after the fourth Monday in March and August.

Times for holding Court in 11th Judicial District.

SEC. 3. That the times of holding the terms of the superior court in the twelfth judicial district shall hereafter be as follows, to-wit: Graham county, on the first Monday in March and August of each year; Cherokee county, on the third Monday of March and August; Clay county, on the second Monday after the third Monday in March and August; Macon county, on the fourth Monday after the third Monday in March and August; Swain county, on the sixth Monday after the third Monday in March and August; Jackson county, on the eighth Monday after the

Times for holding Court in 12th district.

Proviso.

third Monday in March and August; Haywood county, on the tenth Monday after the third Monday in March and August; Transylvania county, on the twelfth Monday after the third Monday in March and August: *Provided*, That no court shall be held in the county of Graham until the first Monday in August, one thousand eight hundred and seventy-two.

All legal proceedings made returnable to said Courts.

SEC. 4. That all process, recognizances and other legal proceedings in civil and criminal actions, which have already been issued or may hereafter be issued and made returnable to spring terms, one thousand eight hundred and seventy-two, of either of the above courts, shall be deemed and held returnable to the terms of said court as now fixed by this act, and all persons who have been recognized or bound or summoned to appear at the spring term of either of said courts for the year one thousand eight hundred and seventy-two, are hereby required to appear at the term thereof as prescribed in this act, and any sheriff or other officer failing or neglecting to make due return of all process or other legal proceedings, as herein required, shall be liable to same pains, fines and penalties as are now prescribed by law for such failure or neglect.

Penalty for neglect of duty.

Sec. of the State to publish act.

SEC. 5. That the secretary of state shall have a certified copy of this act forthwith published in the "North Carolina Citizen," at Asheville, North Carolina, until the first day of May, *anno domini* one thousand eight hundred and seventy-two.

Repealing clause.

When act to take effect.

SEC. 6. That all laws in conflict with this act are repealed, and that this act shall be in force from and after its ratification.

Ratified the 2d day of February, A. D. 1872.

CHAPTER CXI.

AN ACT TO AMEND AN ACT TO CHARTER THE HIGH SHOALS RAILROAD COMPANY PASSED AT THE SESSION OF ONE THOUSAND EIGHT HUNDRED AND SIXTY-SIX AND RATIFIED SEVENTH OF FEBRUARY, ONE THOUSAND EIGHT HUNDRED AND SIXTY-SIX.

SECTION 1. *The General Assembly of North Carolina do* Amendment.
enact, That the first section of the above recited act be so amended as to read as follows: To extend said road in a Extension of Railroad.
northwesterly direction to the town of Lynchburg, in the state of Virginia, by such route as may be deemed most eligible for the purpose, passing through the following counties, viz: Lincoln, Catawba, Iredell, Alexander, Davie, Route.
Yadkin, Forsyth, Surry, Stokes, Rockingham and Wilkes, and, in a southerly direction, through Gaston county to the town of Yorkville, in the state of South Carolina, with branches from the direct line into any of the said counties, as may be considered available.

SEC. 2. That the capital stock of the said company may Increase of stock
be increased to the sum of three million five hundred thousand dollars, to be divided into shares of one hundred dollars each.

SEC. 3. This act shall be in force and take effect from and When act to be in force.
after the date of its ratification.

Ratified the 8th day of February, A. D. 1872.

CHAPTER CXII.

AN ACT TO ABOLISH THE OFFICE OF SUPREME COURT REPORTER AND FOR OTHER PURPOSES.

SECTION 1. *The General Assembly of North Carolina do* Repeal of former law.
enact, That so much of section twenty-three, chapter thirty-three, of the revised code as requires the judges of the

supreme court to appoint a reporter of the decisions of said court be and the same is hereby repealed.

Supreme Court Reporter abolished.

Attorney General to fulfil duties of office.

SEC. 2. That the office of reporter of the decisions of the supreme court is hereby abolished, and it shall be the duty of the attorney general of the state to report said decisions and to discharge all other duties which are now required by law to be performed by the supreme court reporter, for which he shall receive all the fees, emoluments, &c., now allowed by law to said reporter for the duties now performed by him.

When act to take effect.

SEC. 3. That this act shall be in force from and after its ratification.

Ratified the 8th day of February, A. D. 1872.

CHAPTER CXIII.

AN ACT REPEALING CHAPTER ONE HUNDRED AND FOUR PUBLIC LAWS OF ONE THOUSAND EIGHT HUNDRED AND SIXTY-EIGHT AND ONE THOUSAND EIGHT HUNDRED AND SIXTY-NINE.

Repeal.

SECTION 1. *The General Assembly of North Carolina do enact*, That chapter one hundred and four, acts of one thousand eight hundred and sixty-eight and one thousand eight hundred and sixty-nine, entitled "An act concerning public bridges and roads in the county of Robeson," ratified on the first day of April, *anno domini* one thousand eight hundred and sixty-nine, be and the same is hereby repealed.

When act to take effect.

SEC. 2. This act shall be in force from its ratification.

Ratified the 8th day of February, A. D. 1872.

CHAPTER CXIV.

AN ACT TO AUTHORIZE THE COUNTY COMMISSIONERS OF ALLEGHANY COUNTY TO LEVY A SPECIAL TAX.

SECTION 1. *The General Assembly of North Carolina do enact*, That the county commissioners of Alleghany county shall have power to levy such special taxes during the fiscal year of one thousand eight hundred and seventy-two and one thousand eight hundred and seventy-three, on all the property, real and personal, in said county, as will raise in the aggregate not more than four thousand dollars, to be applied to paying the county debt incurred in the erection of public buildings in said county: *Provided*, That the said commissioners in levying said taxes on property shall at the same time levy a tax on the poll, which shall be equal to the tax on property valued at three hundred dollars, to be applied for the purposes specified in this act.

Special Tax levied
for payment of
County debt.

Proviso.

SEC. 2. That this act shall have no force or effect until approved by a majority of the votes cast at an election for the purpose, held under the direction of commissioners of Alleghany county, said election to be held under same rules and regulations as election for members of general assembly.

Voters to notify.

Ratified the 8th day of February, A. D. 1872.

CHAPTER CXV.

AN ACT TO AMEND THE CHARTER OF THE "ATLANTIC, TENNESSEE AND OHIO RAILROAD COMPANY IN NORTH CAROLINA," RATIFIED THE THIRD DAY OF FEBRUARY, ONE THOUSAND EIGHT HUNDRED AND SIXTY-NINE.

SECTION 1. *The General Assembly of North Carolina do enact*, That an act entitled "an act to amend the charter of the Atlantic, Tennessee and Ohio Railroad Company in

Repeal.

North Carolina," ratified the third day of February, one thousand eight hundred and sixty-nine, be and the same is hereby repealed.

Treasurer to re-
turn bonds.

SEC. 2. That the treasurer shall return, upon the request of the Atlantic, Tennessee and Ohio Railroad Company, any and all the bonds of the said company held by the state under and by virtue of the act by this act repealed.

When act to take
effect.

SEC. 3. That this act shall be in force from and after its ratification.

Ratified the 5th day of February, A. D. 1872.

CHAPTER CXVI.

AN ACT TO RE-ENACT AN ACT ENTITLED AN ACT TO INCORPORATE THE ORAPEAKE CANAL AND TURNPIKE COMPANY, RATIFIED THE EIGHTEENTH OF JANUARY, ONE THOUSAND EIGHT HUNDRED AND FORTY-SEVEN.

Re-enactment.

SECTION 1. *The General Assembly of North Carolina do enact*, That an act entitled "An act to incorporate the Orapeake Canal and Turnpike Company," ratified the eighteenth day of January, one thousand eight hundred and forty-seven, be and the same is hereby re-enacted.

Directors.

SEC. 2. That Timothy Lassiter, Robt. H. Ballard, Francis R. Baird and John L. Roper be appointed directors or managers under said act, and that they have all the rights, powers and duties as are vested in the original directors or managers.

Sweat ditch.

SEC. 3. That the said Orapeake Canal and Turnpike Company are required to dig a sweat ditch for the distance of two miles on the south side of the Orapeake Canal, commencing at the point where the said Orapeake Canal intersects with the Dismal Swamp Canal, said ditch to be six feet in width and four feet in depth.

Dimensions.

SEC. 4. This act shall be in force from and after its ratification. When act to take effect.

Ratified the 5th day of February, A. D. 1872.

CHAPTER CXVII.

AN ACT TO AMEND CHAPTER EIGHTY-FIVE OF THE REVISED CODE,
ENTITLED "PILOTS."

SECTION 1. *The General Assembly of North Carolina do enact*, That the thirty-second section of the eighty-fifth chapter of the revised code, entitled "Pilots," be amended by adding to said section the following proviso: *Provided*, That the first pilot who shall speak such vessel so bound in shall be entitled to the pay provided for in this section and no other. Amendment.
Proviso.

SEC. 2. That this act shall be in force from and after its ratification. When act to be in force.

Ratified the 5th day of February, A. D. 1872.

CHAPTER CXVIII.

AN ACT TO PREVENT THE SALE OF SPIRITUOUS LIQUORS WITHIN
TWO MILES OR LESS OF EITHER OCK NOCK FURNACE OR BUCK
HORNE IRON MINES.

SECTION 1. *The General Assembly of North Carolina do enact*, That it shall not be lawful for any person to sell spirituous liquors within two miles or less of either Ock Nock Furnace or the Buck Horne Iron Mines, both in the county of Harnett, and any person violating the provisions of this act shall be guilty of a misdemeanor, and on conviction Sale of spirituous liquors forbidden.
Misdemeanor.

tion, shall be fined and imprisoned in the discretion of the court.

When act to be in force.

SEC. 2. This act shall be in force from and after its ratification.

Ratified the 8th day of February, A. D. 1872.

CHAPTER CXIX.

AN ACT TO AUTHORIZE THE COUNTY COMMISSIONERS OF SAMPSON COUNTY TO LEVY A SPECIAL TAX.

Special Tax levied for payment of County debt.

SECTION 1. *The General Assembly of North Carolina do enact*, The county commissioners of Sampson are hereby authorized to levy a special tax of ten cents of each one hundred dollars worth of property made subject to taxation by the constitution of this state, the said tax to be applied to the payment of the debt outstanding against the county for the rebuilding of bridges, and for other things, as well as to meet the expenses of the current year: *Provided*, That the in levying said tax, constitutional equation between poll and property be observed.

Proviso.

When act to take effect.

SEC. 2. This act shall be in force from and after its ratification.

Ratified the 8th day of February, A. D. 1872.

CHAPTER CXX.

AN ACT TO PREVENT DEPUTY OR ASSISTANT CLERKS FROM PRACTICING AS ATTORNEYS AT LAW IN THE COUNTIES IN WHICH THEY ACT AS DEPUTY OR ASSISTANT CLERKS.

Clerks of Court forbidden to practice law.

SECTION 1. *The General Assembly of North Carolina do enact*, That it shall not be lawful for any deputy or assistant clerk of the superior court clerk of any county to practice

law as an attorney in any of the judicial courts held for the county in which he performs the duties of a deputy or assistant clerk as aforesaid: *Provided*, This act shall not apply to the counties of Rowan and Stanly. Proviso.

SEC. 2. Any person offending against the provisions of this act shall, upon conviction, be fined at the discretion of the court not less than two hundred dollars. Penalty.

SEC. 3. This act shall take effect from its ratification.

When act to take effect.

Ratified the 5th day of February, A. D. 1872.

CHAPTER CXXI.

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO PROVIDE FOR LIMITED PARTNERSHIPS," RATIFIED THE — DAY OF FEBRUARY, ANNO DOMINI ONE THOUSAND EIGHT HUNDRED AND SIXTY-ONE.

SECTION 1. *The General Assembly of North Carolina do enact*, That section eleven, chapter forty-five, laws of one thousand eight hundred and sixty-one, one thousand eight hundred and sixty-two, one thousand eight hundred and sixty-three and one thousand eight hundred and sixty-four, being entitled "An act to provide for limited partnerships," ratified the — day of February, *anno domini* one thousand eight hundred and sixty-one, be amended so as to read as follows: Section eleven, that every renewal or continuance of such partnership beyond the time originally fixed for its duration must be certified, acknowledged and registered, and an affidavit of a general partner made and filed, and notice given by publication as required for its original formation, and every such partnership which is otherwise continued must be deemed a general partnership: *Partnerships which extend over time specified must be registered and affidavit made.*

Provided, That the affidavit herein required may state that the amount of cash therein specified had been originally paid in good faith, and that it is represented by goods or Proviso.

merchandise, then on hand, and has not been impaired in the course of trade.

When act to be in force.

SEC. 2. This act shall be in force from its ratification.

Ratified the 8th day of February, A. D. 1872.

CHAPTER CXXII.

AN ACT CONCERNING THE ROBESON COUNTY OUTLAWS.

Additional reward for the arrest of the Robeson County Outlaws.

SECTION 1. *The General Assembly of North Carolina do enact*, That in addition to the rewards already offered for the arrest of certain outlaws and murderers in the county of Robeson, his excellency, Governor Tod R. Caldwell, is hereby authorized and empowered by public proclamation, to offer as additional reward to those authorized by act of the general assembly, ratified the thirteenth day of February, *anno domini* one thousand eight hundred and seventy-one, ten thousand dollars for the arrest and delivery, dead or alive, of the body of Henry Berry Lowry to the proper authorities of the state, and a reward of five thousand dollars each for the arrest and delivery, dead or alive, of the bodies of Boss Strong, Stephen Lowry, Thomas Lowry, George Applewhite and Andrew Strong, to proper authorities of the state.

When act to take effect.

SEC. 2. This act shall be in force from and after its ratification.

Ratified the 8th day of February, A. D. 1872.

CHAPTER CXXIII.

AN ACT TO REPEAL CHAPTER TWO HUNDRED AND TWENTY-SEVEN (227) OF THE LAWS OF ONE THOUSAND EIGHT HUNDRED AND SIXTY-NINE AND ONE THOUSAND EIGHT HUNDRED AND SEVENTY, ENTITLED AN ACT TO PROVIDE FOR TAKING THE DEPOSITIONS OF WITNESSES IN CIVIL ACTIONS AND SPECIAL PROCEEDINGS IN THE SEVERAL COURTS OF THE STATE.

SECTION 1. *The General Assembly of North Carolina do enact*, That chapter two hundred and twenty-seven (227) of the laws of one thousand eight hundred and sixty-nine and one thousand eight hundred and seventy, be repealed. Repealing clause.

SEC. 2. That section sixty-three (63) of chapter thirty-one (31), of the revised code, and all other provisions thereof relating to the taking of depositions be and the same are hereby re-enacted and declared to be in full force: *Provided*, That nothing in this act shall operate to affect the validity or regularity of depositions heretofore taken in accordance with the aforementioned chapter two hundred and twenty-seven herein repealed, nor to change in any particular the present mode of taking the depositions of non-resident witnesses in actions or proceedings before justices of the peace. Re-enaction.
Proviso.

SEC. 3. This act shall go into effect from and after the first day of February, one thousand eight hundred and seventy-two. When act to take effect.

Ratified the 8th day of February, A. D. 1872.

CHAPTER CXXIV.

AN ACT TO AUTHORIZE E. C. GRIER, LATE SHERIFF OF MECKLENBURG COUNTY, TO COLLECT ARREARS OF TAXES.

SECTION 1. *The General Assembly of North Carolina do enact*, That E. C. Grier, late sheriff of Mecklenburg county, be and he is hereby authorized and empowered to collect Arrears of taxes to be collected.

all arrearages of taxes which were due and owing by James H. Davis, of said county of Mecklenburg, for the year one thousand eight hundred and fifty-eight and one thousand eight hundred and fifty-nine, and all rights, remedies or liens which he, the said E. C. Grier, at any time had against the property of the said Davis are hereby revived and continued in force as against said property in the hands of the heirs at law or personal representatives of the said Davis.

When act to be in force.

SEC. 2. This act shall be in force from and after its ratification.

Ratified the 8th day of February, A. D. 1872.

CHAPTER CXXV.

AN ACT TO AUTHORIZE THE COMMISSIONERS OF ONSLOW COUNTY TO LEVY A SPECIAL TAX.

Special tax levied for payment of County debt.

SECTION 1. *The General Assembly of North Carolina do enact,* That the county commissioners of Onslow county are hereby authorized to levy a special tax equal to the one-half of one per cent. on the taxable property of said county on all subjects of taxation, the constitutional equation of taxation on the pole and property being duly observed, for the purpose of paying the outstanding debt of the county.

Voters to ratify.

SEC. 2. That the propriety of said tax shall be submitted to a vote of the people of said county by an election to be held in the same manner with elections for members of the general assembly.

When act to take effect.

SEC. 3. That this act shall be in force from its ratification. Ratified the 8th day of February, A. D. 1872.

CHAPTER CXXVI.

AN ACT TO AUTHORIZE THE COMMISSIONERS OF GREENE COUNTY TO LEVY A SPECIAL TAX TO PAY OFF THE DEBT OF THE COUNTY.

SECTION 1. *The General Assembly of North Carolina do enact*, That the commissioners of Greene county are hereby authorized to levy and collect a special tax for the purpose of paying off the debt of said county not to exceed one-fourth of one per cent, on the one hundred dollars worth of real and personal property in said county. Special tax levied
Limitation.

SEC. 2. That there shall be at the same time, and for the same purpose, levied on the poll, a tax equal to the tax on three hundred dollars worth of real and personal property. Poll tax.

SEC. 3. This act shall have no force or effect until it shall be submitted to and ratified by the qualified voters of the county. Voters to ratify.

SEC. 4. This act shall be in force from and after its ratification. When act to take effect.

Ratified the 5th day of February, A. D. 1872.

CHAPTER CXXVII.

AN ACT TO PREVENT THE SALE OF SPIRITUOUS LIQUORS WITHIN ONE MILE OF THE CORPORATE LIMITS OF THE TOWN OF LENOIR, IN CALDWELL COUNTY.

SECTION 1. *The General Assembly of North Carolina do enact*, That it shall be unlawful for any person or persons to sell, dispose of or deliver any sort or kind of spirituous liquors within one mile of the corporate limits of the town of Lenoir, in Caldwell county. Sale of spirituous liquors forbidden.

Penalty.

SEC. 2. That violation of this act shall be a misdemeanor, and that any person convicted of said violation before the superior court of law shall be fined fifty dollars or imprisoned three months or both at the discretion of the court.

When act to take effect

SEC. 3. That this act shall be in force from and after its ratification.

Ratified the 8th day of February, A. D. 1872.

CHAPTER CXXVIII.

AN ACT TO PREVENT THE SALE OF SPIRITUOUS LIQUORS WITHIN ONE AND A HALF MILES OF ST. PAUL'S CHURCH, IN THE COUNTY OF ROBESON.

Sale of intoxicating liquors prohibited.

SECTION 1. *The General Assembly of North Carolina do enact*, That it shall be unlawful for any person or persons to sell, trade or traffic in spirituous or intoxicating liquors within one mile and a half of St. Paul's Presbyterian Church, and in one mile and a half of Ashpole Baptist Church, in the county of Robeson, and any person selling or dealing in intoxicating liquors within the limits set forth in this act and contrary to the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction before a justice of the peace shall be fined not more than twenty-five dollars nor less than ten dollars in the discretion of the court: *Provided*, That the fines collected under the provisions of this act shall be paid into the county school fund.

Misdemeanor.

Proviso.

When act to take effect.

SEC. 2. This act shall be in force from its ratification.

Ratified the 8th day of February, A. D. 1872.

CHAPTER CXXIX.

AN ACT TO AMEND AND RE-ENACT AN ACT TO INCORPORATE THE
FLAT SWAMP, LOCK'S CREEK AND EVANS' CREEK CANAL COM-
PANY OF CUMBERLAND COUNTY.

SECTION 1. *The General Assembly of North Carolina do* Amendment and
enact, That an act entitled an act to incorporate the "Flat Re-enactment.
Swamp, Lock's Creek and Evans' Creek Canal Company,"
of the county of Cumberland, ratified 4th day of March,
anno domini one thousand eight hundred and sixty-seven,
be amended and re-enacted to read as follows : That A. A. Corporators.
McKethan, L. W. Devane, Robt. Williams, J. M. Williams,
James Bruce, W. J. McPhail, Niven Calbreth, James Guy,
J. D. Williams, H. M. Swain, and all other land owners who
voluntarily take stock in the association, be and they are
hereby created a corporation and body politic by the name
and style of the "Flat Swamp, Lock's Creek and Evans' Corporate name.
Creek Canal Company," and by that name and style may
sue and be sued, plead and be impleaded in any court of the
state, contract and be contracted with, have succession and Corporate rights.
a common seal, acquire, own and possess real and personal
property, and to bind the members who shall join the same
voluntarily to abide by, do and perform all the requirements
which they may in meeting and by vote of the majority of
the members of said corporation by resolution passed and
recorded in the minutes of their company require ; and shall
have full power and authority to make, form and adopt such
by-laws and regulations for their government, not inconsis-
tent with the constitution and laws of the state or of the
United State, as they shall think proper.

SEC. 2. That the purpose of this corporation is to drain Drainage by can-
als.
the swamp lands of Flat Swamp, Lock's Creek and Evans'
Creek, and the tributaries of the same, by cutting a canal
from some point on the east side of the Cape Fear river,
and any other canal or canals, ditches or drains, that may be
found necessary.

Share of stockholders.

SEC. 3. That each stockholder shall be deemed the owner of one share for every one hundred dollars worth of land without fractions, drained or to be drained, which he may own; the valuation of the land to be that of the tax lists of the county of Cumberland for the year preceding; and for every share so held each stockholder shall be entitled to one vote in all general meetings.

Valuation of land.

Vote of stockholders.

Annual levy of money for drainage.

SEC. 4. That they shall have power by vote or of the company or a majority of the stockholders in value, to levy and collect from the stockholders such sum or sums of money annually, on all the lands drained or to be drained, of those who become stockholders in the company, for the purpose of draining said lands and keeping open all canals, ditches, drains, &c., after the same shall have been completed: *Provided*, The sum or sums so levied shall not exceed the sum of fifty cents per acre, for any one year; and should any difficulty arise as to how many acres will be benefitted by the proposed draining, there shall be appraised by a board of three arbitrators, selected from among the stockholders as arbitrators are usually chosen, who shall assess the same and report in writing to the secretary of the company. All levies or assessments made in accordance with this section, shall be a lien upon the land and may be recovered in any court of the state having jurisdiction of the same.

Proviso.

Assessment made by arbitrators.

Levies made a lien upon land.

Indemnity secured.

SEC. 5. That said company shall be authorized to proceed under sections one to eleven inclusive of an act to provide draining wet lands, ratified twenty-sixth day of March, *anno domini* one thousand eight hundred and seventy, to secure indemnity for the labor expended in draining the lands of those who do not become stockholders in the corporation, and to have an assessment and recovery as therein directed for the benefit and improvement done the lands of those not stockholders of this company.

Officers of company.

SEC. 6. That the officers of this company shall consist of a president, secretary, treasurer and board of five directors, who shall be annually elected at such time and place as the stockholders may agree and fix upon, and said officers shall

Annual election.

hold office for one year or until their successors are elected. That they shall be paid such sums as the company shall determine, and the treasurer shall give bond in such sum as may be agreed upon, payable to the company for the faithful keeping of the moneys of said company and dispensing the same, in such manner as may be ordered by the president and directors.

Treasurer to give bond for money entrusted.

SEC. 7. That said company may borrow money to an amount not exceeding twenty-five thousand dollars and issue therefor such bonds or other evidences of debt, and at such a rate of interest, as said company may authorize; and to secure the payment thereof each stockholder shall convey his lands to the president and directors or such trustees as may be chosen by them, in trust, to be by them mortgaged in such manner as the stockholders may agree upon to secure the payment of said bonds or other evidences of debt.

Bonds may be issued.

Lands of stockholders to be mortgaged to secure payment of bonds.

SEC. 8. That this act shall be in force from and after its ratification.

When act to be in force.

Ratified the 13th day of December, A. D. 1871.

CHAPTER CXXX.

AN ACT TO CHARTER THE CAROLINA NARROW GAUGE RAILROAD.

SECTION 1. *The General Assembly of North Carolina do enact*, That a company may be formed with a capital stock not exceeding two millions of dollars, to be divided into shares of one hundred dollars each, to be called and known as the "Carolina Narrow Gauge Railroad Company," for the purpose of constructing a narrow gauge railroad from a point in the line dividing the states of North and South Carolina, in the direction of Yorkville, South Carolina, over the most practicable route, to the town of Dallas, in the county of Gaston, thence to the town of Lincolnton, in the county of Lincoln, thence to the town of Newton, in the

Capital stock.

Corporate name.

Location of Rail Road.

county of Catawba, thence to the town of Hickory Tavern, in the same county, thence to the town of Lenoir, in the county of Caldwell, and such company when formed, as hereinafter directed, shall have power to receive, possess, own and transfer real and personal property and estate; to have a common seal, and to pass such by-laws, not inconsistent with the laws of this state, as may be necessary to carry out the objects of the corporation; shall be capable in law of suing and being sued, pleading and be impleaded, and shall have and enjoy all the rights of other corporate bodies under the laws of this state, and have the exclusive right to transfer and carry persons, produce, merchandise and mineral on and along such railroad, at such prices as they may fix.

Corporate rights and privileges.

Commissioners.

SEC. 2. That for the purpose of creating the capital stock of such company, J. G. Lewis, Joseph C. Cobb, O. G. Foard and James R. Ellis, or any three of them, are hereby appointed commissioners, whose duty it shall be, as soon after the passage of this as may be, to appoint such commissioners to open books of subscription at such places and at such times as to them shall seem best, and under such rules and regulations as they may prescribe; such subscriptions, or any part thereof, may be received payable in money, lands, labor or material necessary in the construction of said road, bonds, stocks or other valuable credits, in such manner and on such terms as shall be agreed between said company and such subscribers.

Books of subscription.

Manner of raising subscription.

Meeting of stockholders.

SEC. 3. That whenever the sum of ten thousand dollars shall have been subscribed to the capital stock of said company, it shall be the duty of the commissioners above named, any three of whom may act, to call a general meeting of the stockholders, after giving such notice as to them shall seem sufficient, and at such times and places as they shall determine; and at all general meetings of said stockholders, not less than a majority of all the stock subscribed shall constitute a quorum for the transaction of business; and said stockholders when so met in general meeting, shall have power, and it shall be their duty, to elect a president and

Majority to form a quorum.

four directors for said company, whose term of office shall be for one year, and until others are chosen. In the election of president and directors, and in enacting such laws as may be necessary, the stockholders may be entitled to vote as follows, viz: one vote for each share owned not exceeding five; one vote for every two shares above five and not above ten; one vote for every four shares above ten and not above twenty; one vote for every ten shares above twenty and not above fifty; one vote for every fifty shares above fifty and not above five hundred; and one additional vote for every one hundred shares above five hundred; no fraction shall be counted making less than half a vote.

SEC. 4. That it shall be the duty of said stockholders at their first general meeting to prescribe the manner and time in which payment of stock on the subscription books shall be made.

SEC. 5. That it shall be the duty of the president and directors of said company to appoint a treasurer, who shall remain in office such a length of time as the company in their by-laws shall determine; the president and directors shall have a general direction and management of the affairs of said company, and shall appoint some suitable person as engineer, whose duty it shall be to make the necessary surveys for the location of said railroad, and furnish the president and directors with reports of said surveys and estimates of cost; said directors shall have power to fill any vacancy that may occur in their board until their next meeting, and in the absence of the president may elect one for the time; they shall also appoint a secretary, whose duty it shall be to keep a fair and correct record of the proceedings of said board and all of the proceedings of the stockholders in general meetings, in a book to be provided for that purpose.

SEC. 6. That the president or board of directors shall at least once a year 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 any by-law of the company, and also call a general meeting of the stockholders whenever

President and
Directors
Term of officers.

Stockholder vote
by shares.

Manner and time
of payment.

Treasurer.

President and
Directors have
general manage-
ment.

Engineer ap-
pointed.

Vacancies filled.

Secretary ap-
pointed.

Annual report.

they may deem it expedient, and the company may provide in their by-laws for the calling of occasional meetings and prescribe the mode thereof.

Land condemned. SEC. 7. That whenever lands shall be required for the construction of the road or for warehouses, water-stations, turn-outs, workshops, depositories or other building purposes, and for any cause the same cannot be purchased from the owner, the same may be taken by the directors at a valuation to be ascertained as follows: the sheriff of the county in which said lands may be shall at the request of the president of said road summons five disinterested freeholders of his county who shall ascertain the value under oath, to be administered by the sheriff, they first deducting the enhanced value of the land caused by said railroad from such valuation and adding particular loss or damage, and upon the payment or tender by the president of the amount so assessed, the title of the property so seized and appraised shall thereby vest in the said corporation: *Provided*, That either party may appeal to the superior court of the county upon the question of the amount assessed: *And provided further*, That not more than one hundred feet from the centre of the road shall be allowable to be so condemned.

Manner of raising funds. SEC. 8. That for the purpose of securing the building of said road the company shall have power to mortgage, sell or lease the same with all its franchises or any part thereof.

When act to take effect. SEC. 9. That this act shall be in force from and after its ratification.

Ratified the 8th day of February, A. D. 1872.

CHAPTER CXXXI.

AN ACT TO ENABLE THE WILMINGTON, CHARLOTTE AND RUTHERFORD RAILROAD COMPANY TO COMPLETE ITS ROAD AND EXTEND ITS ROAD TO THE TENNESSEE LINE.

WHEREAS, The speedy completion of the Wilmington, Charlotte and Rutherford Railroad to Rutherfordton, and the extension of the said road through Asheville to the Tennessee line, as authorized by the charter of said company, is of the utmost importance to the interests of the company and of the state; therefore,

SECTION 1. *The General Assembly of North Carolina do enact*, That for the purpose of supplying funds to enable the Wilmington, Charlotte and Rutherford Railroad Company to complete its road and to extend the same to the Tennessee line, the said company is authorized to borrow money by the issue of bonds at the rate of sixteen thousand dollars a mile, from Wilmington to the Tennessee line, to be authenticated in such manner as the president and directors of said company may determine, in sums not less than five hundred dollars, at a rate of interest not exceeding eight per cent. per annum in gold, principal and interest payable in the cities of New York and London, or at such other place or places and at such times in gold at the rate of five dollars to the pound sterling or in the United States currency, as the president and directors of said company may deem best; the bonds to be issued under this act not to exceed eight millions of dollars.

SEC. 2. That to secure the payment of these bonds issued as aforesaid, and the interest thereon as the same may accrue, the said Wilmington, Charlotte and Rutherford Railroad Company is authorized to execute and deliver mortgage deeds, signed by the president of said company, conveying its franchises and property, including its road-bed, superstructure, choses in action, and real and personal estate of whatever kind, and the deed or deeds of mortgage so exe-

Priority of mortgage.

ented and delivered and registered in the county of New Hanover, or in the county of Mecklenburg, shall have priority over any lien or other claim held by this state in the subject matter conveyed, it being the intent and meaning of this act, that the mortgage under the authority of this act, shall have rights and powers and shall be deemed a first mortgage.

Bonds dischargeable.

SEC. 3. That the bonds issued under this act shall be exchangeable at par for the present outstanding first mortgage bonds of the company, and in order to secure and effect such exchange, the said bonds issued under this act to the amount of two millions five hundred thousand dollars, shall be deposited with trustees to be appointed by the president and directors of the said company, to be exchanged for the present outstanding first mortgage bonds of the company, whenever the holders thereof will consent to such exchange; that the board of directors of said railroad company are hereby authorized to divide the bonds herein authorized to be issued into classes, giving to the various classes such order and preference as may be expedient and desirable; that one of the classes of bonds so to be prepared, may be substituted for the fifteen hundred thousand dollars in bonds directed to be destroyed by an ordinance of the convention of one thousand eight hundred and sixty-eight, ratified fifth day of February, *anno domini* one thousand eight hundred and sixty-eight. That so much of said ordinance as is in conflict herewith, is hereby repealed: *Provided*, That this repeal shall not be construed to abridge or impair existing rights.

Amount of bonds deposited with trustees.

Exchange for mortgage bonds.

Division of bonds into classes.

Substitution of bonds.

Ordinance repealed. Proviso.

Change of gauge.

SEC. 4. That the Wilmington, Charlotte and Rutherford Railroad Company is authorized at any time to change the gauge of its road in such measure and in such way as may be deemed best for the interests of this company.

Certificate of Capital stock received by Treasurer of State.

SEC. 5. That so soon as the Wilmington, Charlotte and Rutherford Railroad shall be in operation from Wilmington to Charlotte, and the president of the company shall certify the same to the public treasurer of the state, and shall deliver to that officer a certificate of three thousand shares of capital

stock in said company, duly executed and attested according to the by-laws and charter of said company, in favor of the state of North Carolina, then the state by this act releases all interest, claim and demand whatsoever in and against said railroad company, except the said three thousand shares of capital stock as hereinafter provided for, and the public treasurer is directed thereon to surrender to the president of said company all the bonds of the company held by the state.

Relinquishment
by the State of
all interest in the
Company.

Surrender of
bonds.

SEC. 6. That section four of an act entitled "An act declaratory of the meaning of the act entitled an act to repeal certain acts passed at the session of one thousand eight hundred and sixty-eight and one thousand eight hundred and sixty-nine, making appropriations to railroad Companies, ratified eighth of March, one thousand eight hundred and seventy, and for other purposes," ratified the twenty-second day of December, *anno domini* one thousand eight hundred and seventy, be and the same is hereby repealed.

Repealing clause..

SEC. 7. That for the purpose of raising the means necessary to equip their railroad with rolling stock, warehouses, shops, wharves and offices, and for no other purpose, the stockholders may, at their discretion, create not exceeding fifteen thousand shares of preferred or guaranteed capital stock, in such form and with such conditions as they may deem best, and sell the same at auction or otherwise, upon the best terms attainable, without regard to the par value of such capital stock.

Capital stock cre-
ated for the equip-
ment of Rail
Road.

SEC. 8. That upon the acceptance of this act by the Wilmington, Charlotte and Rutherford Railroad Company, within ninety days after its ratification, it shall become a part of the charter of said company.

Acceptance of act

SEC. 9. That nothing in this act shall be construed in any manner to effect the mortgage bonds of the Wilmington, Charlotte and Rutherford Railroad Company, now held by the Western Railroad Company, or the lien heretofore made to secure the same.

Mortgage bonds
held intact.

Conflicting clause SEC. 10. That all laws coming in conflict with this act are hereby repealed, and this act shall be in force from and after its ratification.
 . Ratified the 8th day of February, A. D. 1872.

CHAPTER CXXXII.

AN ACT TO LAY OFF AND ESTABLISH A NEW COUNTY BY THE
 NAME OF PAMLICO.

Formation of new County. SECTION 1. *The General Assembly of North Carolina do enact,* That a county by the name of Pamlico shall be and the same is hereby laid off and established out of portions of Craven and Beaufort counties, within the following bounds, to wit: Beginning at the mouth of South Creek, in the county of Beaufort, at Hickory Point, running thence up South Creek to the mouth of Bailey Creek, and up Bailey Creek to the head thereof, thence a west course to Durham's Creek and up Durham's Creek to the head thereof, thence a direct line to the head waters of Deep Run and with Deep Run to Upper Broad Creek, in Craven county, and with Broad Creek to Neuse river, thence with Neuse river and Pamlico Sound to the mouth of Pamlico river, and thence up Pamlico river, so as to include Indian Island, to Hickory Point, at the mouth of South Creek, the beginning.

Boundary. SEC. 2. That the county of Pamlico shall be and is hereby invested with all the rights, privileges and immunities of other counties in the state: *Provided,* That this bill for the formation of said county, together with the obligation to pay its proportionate share of the debt of Craven and Beaufort counties, shall be submitted to the qualified voters of the territory to be formed into a new county for adoption or rejection: *Provided further,* That if a majority of the votes cast in that portion of Beaufort county proposed to be cut off shall be against the new county, it shall not form a

Rights and privileges.

Proviso.

Further proviso.

part of the same: *Provided further*, That until another apportionment, the county hereby created shall in all elections for state senators cast its vote with the senatorial district of which Beaufort county shall form a part, and in all elections for representatives it shall cast its vote with the county of Beaufort. Further Proviso.

SEC. 3. This act shall be in force from and after its ratification. When act to take effect.

Ratified the 8th day of February, A. D. 1872.

CHAPTER CXXXIII.

AN ACT TO AMEND THE FAYETTEVILLE AND FLORENCE RAILROAD.

SECTION 1. *The General Assembly of North Carolina do enact*, That the charter of the Fayetteville and Florence Railroad Company be so amended that any other railroad company in or out of the state, may subscribe to the capital stock of said company, and may exchange bonds with, or endorse its bonds, notes or drafts; may guarantee any contract, agreement or obligation of any kind, made or entered into by them; may loan their money, may exchange materials, labor or supplies on such terms as may be agreed on; and all such contracts and agreements signed by the president and countersigned by the secretary, shall be legal and binding, with or without a seal. Amendment.
Privileges granted
Contracts to be binding.

SEC. 2. That the said company may increase its capital stock to one million five hundred thousand dollars, and may issue mortgage bonds to an amount not exceeding two million five hundred thousand dollars, bearing such rate of interest as may be agreed on, interest payable semi-annually or annually from and after the date thereof. Increase of Capital stock.
Mortgage bonds issued.

SEC. 3. That the directors of the North Carolina Penitentiary be, and they are hereby authorized to deliver to the Convicts employed.

president of said company, one hundred and fifty convicts: *Provided*, That enough be retained in the Penitentiary to carry on the work of its construction, to be employed by said Fayetteville and Florence Railroad Company in grading said road, getting cross-ties, timber for bridges, culverts and depot houses, or in doing any work for said company that they may be capable of doing, said railroad company first agreeing to feed, clothe, and guard the said convicts so long as they are thus in their employment: *Provided*, That no convict now in the penitentiary shall be thus transferred without his written consent first had and obtained: *Provided further*, That after due advertisement, no better terms are offered by any other railroad company for the labor of said convicts: *Provided further*, That no convict who has been convicted of murder, rape, arson, or barn burning shall be taken from the penitentiary.

Proviso.

Convicts fed and clothed.
Proviso.

Further Proviso.

Further Proviso.

Convicts employed in grading Rail Road.

SEC. 4. That the president and directors of the Fayetteville and Florence Railroad Company may work said convicts on said road in grading it to the South Carolina line, and that they may work all or any part of them on the Western railroad, for the purpose of grading it to the town of Greensboro', upon such terms, or under such contract as may be agreed by and between the president and directors of the Fayetteville and Florence Railroad and the Western Railroad.

Extension of Rail Road.

SEC. 5. That the president and directors of said company may build a branch road to connect with or cross any other road now built or hereafter to be built, and may extend the main track of said road from Fayetteville north to the Virginia line, in the direction of Norfolk.

Repealing clause.

SEC. 6. That all laws and clauses of laws coming in conflict with the provisions of this act, be and they are hereby repealed, and that this act shall be in force and take effect from and after its ratification.

Ratified the 8th day of February, A. D. 1872.

CHAPTER CXXXIV.

AN ACT TO CREATE A BOARD OF COMMISSIONERS OF NAVIGATION FOR THE PORTS OF OCRACOKE AND HATERAS INLET.

SECTION 1. *The General Assembly of North Carolina do enact*, That Francis O'Neal and William Tolson, of the county of Hyde, John Rollarson and Stephen Fulcher, of the county of Dare, and William Dixon, of the county of Carteret, shall constitute a Board of Commissioners of Navigation for the ports of Ocracoke and Hateras inlet, whose duty it shall be to meet at Ocracoke at least three times in each year, or a majority of them, after giving at least twenty days notice of each meeting; and when any person is desirous of becoming a pilot at Ocracoke bar at Hateras inlet over the swashes through Pamlico and Albeinable Sound, he shall be examined by said board, and when found competent to take charge of any ship or vessel as a pilot, the board shall issue to him a branch and take the bond prescribed by law, and no person shall be authorized to act as a bar or swash pilot unless he shall have a branch from said board: *Provided*, That unexpired branches shall not be affected by the provisions of this act.

Commissioners appointed.

Meeting of Board triennially.

Pilotage.

Proviso.

SEC. 2. Said commissioners shall qualify in the manner prescribed by section twenty-four (24,) chapter eighty-five of the revised code, and the said board shall perform the same duties, have the same power and authority, and be subject to the same liabilities as are prescribed by said act or any act amendatory thereof and still in force.

Qualification of Commissioners.

SEC. 3. That every pilot licensed by said board, shall give such bond, perform such duties, receive such fees or emoluments, have such remedies and be subject to such penalties and liabilities, as are prescribed by existing laws.

Pilots required to give bond.

SEC. 4. This act shall take effect from its ratification.

When act to be in force.

Ratified the 8th day of February, A. D. 1872.

CHAPTER CXXXV.

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO PAY THE EXPENSES OF IDIOTS AND LUNATICS INCURRED BY COUNTIES IN CERTAIN CASES, RATIFIED THE TWENTY-EIGHTH DAY OF MARCH, ANNO DOMINI ONE THOUSAND EIGHT HUNDRED AND SEVENTY.

Claims of Lunatics.

SECTION 1. *The General Assembly of North Carolina do enact*, That the auditor shall not audit any claim or account presented at the instance of any county under and in pursuance of an act entitled "an act to pay the expenses of lunatics incurred by counties in certain cases," ratified the twenty-eighth day of March, *anno domini* one thousand eight hundred and seventy, unless in addition to the present requirements of law, it shall first appear upon the affidavit of two respectable practicing physicians that the person or persons on account of whom such claim or claims shall be presented are in their opinion such persons as are under existing laws entitled in all respects to be admitted into the Lunatic Asylum as a lunatic, that such claim has been approved by the board of trustees of the township in which such lunatics or idiots may reside, and the chairman of the board of county commissioners.

Affidavit of Physicians required.

Claim approved by Board of Trustees.

SEC. 2. That the provisions of this act shall extend to all cases of lunatics on account of which claims are now pending and not yet allowed and paid as well as such as may hereafter occur.

Discharge of Lunatics.

SEC. 3. That it shall be the duty of the county commissioners by proper order to that effect, to discharge any ascertained lunatic in their county not admitted to the Lunatic Asylum when it shall appear upon the certificate of two respectable physicians and the chairman of the board of county commissioners that such lunatic or idiot ought to be discharged, if in the Lunatic Asylum.

When act to be in force.

SEC. 4. That this act shall be in force from and after its ratification.

Ratified the 8th day of February, A. D. 1872.

CHAPTER CXXXVI. †

AN ACT REQUIRING CLERKS OF SUPERIOR COURTS TO HAVE THEIR OFFICES OPENED EVERY MONDAY FOR THE TRANSACTION OF PROBATE BUSINESS.

SECTION 1. *The General Assembly of North Carolina do enact*, That the clerks of the superior courts of this state shall open their offices every Monday, from nine a. m. to four p. m., for the transaction of probate business, and each succeeding day till such matter is disposed of.

Clerks required to keep open office for Probate business.

SEC. 2. That any clerk of the superior court failing to comply with the first section of this act (unless such failure is caused by sickness), shall forfeit his office.

Forfeiture of office.

Ratified the 8th day of February, A. D. 1872.

CHAPTER CXXXVII.

AN ACT TO RE-ENACT AND CONTINUE IN FORCE AN ACT ENTITLED AN ACT TO EMPOWER THE COMMISSIONERS OF CUMBERLAND COUNTY TO LEVY A SPECIAL TAX, RATIFIED THE TWENTY-FOURTH DAY OF FEBRUARY, ONE THOUSAND EIGHT HUNDRED AND SEVENTY.

SECTION 1. *The General Assembly of North Carolina do enact*, That an act entitled an act to empower the commissioners of Cumberland county to levy a special tax, ratified the twenty-fourth day of February, *anno domini* one thousand eight hundred and seventy, be and the same is hereby re-enacted and continued in force one year.

Re-enactment.

SEC. 2. This act shall be in force from and after its ratification.

When act to take effect.

Ratified the 8th day of February, A. D. 1872.

CHAPTER CXXXVIII.

AN ACT TO AUTHORIZE THE FORMATION OF RAILROAD COMPANIES
AND TO REGULATE THE SAME.

Rules for forming
Rail Road Com-
panies.

Name of com-
pany.

Route of Rail
Road.

Capital Stock.

Names and resi-
dences of Direc-
tors.

Articles to be filed
in the office Sec.
State.

When declared a
Corporation.

SECTION 1. *The General Assembly of North Carolina do enact as follows,* Any number of persons, not less than twenty-five, may form a company for the purpose of constructing, maintaining and operating a railroad for public use in the conveyance of persons and property, or for the purpose of maintaining and operating any unincorporated railroad already constructed for the like public use; and for that purpose may make and sign articles of association, in which shall be stated the name of the company, the number of years the same is to continue, the places from and to which the road is constructed or maintained and operated, the length of such road as near as may be, and the name of each county in this state through or into which it is made or intended to be made, the amount of the capital stock of the company, which shall not be less than five thousand dollars for every mile of road constructed or proposed to be constructed, and the number of shares of which said capital stock shall consist, and the names and places of residence of six directors of the company, who shall manage its affairs for the first year, and until others are chosen in their places. Each subscriber to such articles of association shall subscribe thereto his name, place of residence, and the number of shares of stock he agrees to take in said company. On compliance with the provisions of the next section, such articles of association may be filed in the office of the secretary of state, who shall indorse thereon the day they are filed, and record the same in a book to be provided by him for that purpose; and thereupon the persons who have so subscribed such articles of association, and all persons who shall become stockholders in such company, shall be a corporation by the name specified in such articles of association, and shall possess the powers and privileges granted to corporations by this act.

SEC. 2. Such articles of association shall not be filed and recorded in the office of the secretary of state until at least one thousand dollars of stock for every mile of railroad proposed to be made is subscribed thereto, and five per cent. paid thereon in good faith, and in cash, to the directors named in said articles of association; nor until there is indorsed thereon or annexed thereto an affidavit made by at least three of the directors named in said articles, that the amount of stock required by this section has been in good faith subscribed and five per cent. paid in cash thereon as aforesaid, and that it is intended in good faith to construct or to maintain and operate the road mentioned in such articles of association, which affidavit shall be recorded with the articles of association, as aforesaid.

Stock must be subscribed before articles are filed.

Affidavit made by directors.

SEC. 3. A copy of any articles of association filed and recorded in pursuance with this act or of the record thereof with a copy of the affidavit aforesaid indorsed thereon or annexed thereto, and certified to be a copy by the secretary of this state or his deputy, shall be presumptive evidence of the incorporation of such company, and of the facts therein stated.

Presumptive evidence.

SEC. 4. When such articles of association and affidavit are filed and recorded in the office of the secretary of state, the directors named in said articles of association may, in case the whole of the capital stock is not before subscribed, open books of subscription to fill up the capital stock of the company in such places and after giving such notice as they may deem expedient, and may continue to receive subscriptions until the whole of the capital stock is subscribed; the time of subscribing, every subscriber shall pay to the directors five per cent. on the amount subscribed by him in money, and no subscription shall be received or taken without such payment.

Directors to open books of subscription.

SEC. 5. There shall be a board of six directors and a president of every corporation formed under this act to manage its affairs; and said directors and president shall be chosen annually by a majority of the votes of the stockholders voting at such election, in such manner as may be prescribed

President and Directors.

Term of office.	in the by-laws of the corporation, and they may and shall continue in office until others are elected in their places.
Vote by shares.	In the election of directors and president each stockholder shall be entitled to one vote personally or by proxy on every share held by him thirty days previous to any such election; and vacancies in the board of directors and president shall be filled in such manner as shall be prescribed by the by-laws of the corporation. The inspectors of the first election of directors shall be appointed by the board of directors named in the articles of association. No person shall be a director or president unless he shall be a stockholder owning stock absolutely in his own right and qualified to vote for directors at the election at which he shall be chosen; and at every election of directors the books and papers of such company shall be exhibited to the meeting if a majority of the stockholders present shall require it. And whenever the purchaser or purchasers of the real estate, track and fixtures of any railroad corporation which has heretofore been sold or may be hereafter sold by virtue of any mortgage executed by such corporation or execution issued upon any judgment or decree of any court shall acquire title to the same in the manner prescribed by law, such purchaser or purchasers may associate with him and them any number of persons, and make and acknowledge and file articles of association as prescribed in this act; such purchaser or purchasers and their associates shall thereupon be a corporation with all the powers, privileges and franchises, and be subject to all the provisions of said act.
Vacancies.	
Qualification of officers.	
Title required.	
When a corporation.	SEC. 6. The president and directors shall appoint a treasurer and secretary and such other officers and agents as shall be prescribed by the by-laws.
Officers appointed by the President.	SEC. 7. The directors may require the subscribers to the capital stock of the company to pay the amount by them respectively subscribed in such manner and in such instalments as they may deem proper. If any stockholder shall neglect to pay any instalment as required by a resolution of the board of directors, the said board shall be authorized to declare his stock and all previous payments thereon forfeited
Payment by instalments.	Stock forfeited.

for the use of the company, but they shall not declare it so forfeited until they shall have caused a notice in writing to be served on him personally, or by depositing the same in the postoffice, properly directed to him at the postoffice nearest his usual place of residence, stating that he is required to make such payment at the time and place specified in said notice, and that if he fails to make the same, his stock and all previous payments thereon will be forfeited for the use of the company, which notice shall be served as aforesaid at least sixty days previous to the day on which payment is required to be made.

SEC. 8. The stock of every company formed under this act shall be deemed personal estate and shall be transferable in the manner prescribed by the by-laws of the company.

Personal estate.

SEC. 9. In case the capital stock of any company formed under this act is found to be insufficient for constructing and operating its road, such company may with the concurrence of two-thirds in amount of all its stockholders, increase its capital stock from time to time to any amount required for the purposes aforesaid. Such increase must be sanctioned by a vote in person or by proxy of two-thirds in amount of all the stockholders of the company, at a meeting of such stockholders called by the directors of the company for that purpose, by a notice in writing to each stockholder, to be served on him personally or by depositing the same, properly folded and directed to him, at the postoffice nearest his usual place of residence, in the postoffice at least twenty days prior to such meeting. Such notice must state the time and place of the meeting and its object and the amount to which it is proposed to increase the capital stock. The proceedings of such meeting must be entered on the minutes of the proceedings of the company, and thereupon the capital stock of the company may be increased to the amount sanctioned by a vote of two-thirds in amount of all the stockholders of the company as aforesaid.

Insufficiency of stock to be increased.

Meeting of stockholders.

Time, place, and object of meeting to be publicly notified.

SEC. 10. Each stockholder of any company formed under this act shall be individually liable to the creditors of such company, to an amount equal to the amount unpaid on the

Liabilities of Stockholders.

stock held by him, for all the debts and liabilities of such company until the whole amount of the capital stock so held by him shall have been paid to the company, and all the stockholders of any such company shall be jointly and severally liable for the debts due or owing to any of its laborers and servants, other than contractors, for personal services for thirty days' service performed for such company, but shall not be liable to an action therefor before an execution shall be returned unsatisfied in whole or in part against the corporation, and the amount due on such executions shall be the amount recoverable with costs against such stockholders; before such laborer or servant shall charge such stockholder for such thirty day's services he shall give him notice in writing within twenty days after the performance of such service that he intends so to hold him liable and shall commence such action therefor within thirty days after the return of such execution unsatisfied as above mentioned; and every such stockholder, against whom any such recovery by such laborer or servant shall have been had, shall have a right to recover the same of the other stockholders in said corporation in ratable proportion to the amount of the stock they shall respectively hold with himself.

Execution against
Stockholders.

Stockholders li-
able for their
wards.

SEC. 11. No person holding stock in any such company as executor, administrator, guardian or trustee, and no person holding such stock as collateral security, shall be personally subject to any liability as stockholders of such company; but the person pledging such stock shall be considered as holding the same, and shall be liable as a stockholder accordingly; and the estates and funds in the hands of such executor, administrator, guardian or trustee, shall be liable in like manner and to the same extent as the testator or intestate or the ward or person interested in such trust fund would have been if he had been living and competent to act and hold the same stock in his own name.

Indebtedness to
laborers.

SEC. 12. As often as any contractor for the construction of any part of a railroad which is in progress of construction shall be indebted to any laborer for thirty or any less number of days' labor performed in constructing said road, such

laborer may give notice of such indebtedness to said company in the manner herein provided, and said company shall thereupon become liable to pay such laborer the amount so due him for such labor, and an action may be maintained against said company therefor. Such notice shall be given by said laborer to said company within twenty days after the performance of the number of days' labor for which the claim is made. Such notice shall be in writing, and shall state the amount and number of days' labor, and the time when the same was performed, for which the claim is made, and the name of the contractor from whom due, and shall be signed by such laborer, or his attorney, and shall be served on an engineer, agent or superintendent employed by said company having charge of the section of the road on which such labor was performed, personally, or by leaving the same at the office or usual place of business of such engineer, agent or superintendent, with some person of suitable age. But no action shall be maintained against any company under the provisions of this section, unless the same is commenced within thirty days after notice is given to the company by such laborer as above provided.

Time specified for action.

SEC. 13. In case any company formed under this act is unable to agree for the purchase of any real estate required for the purposes of its incorporation, it shall have the right to acquire title to the same in the manner and by the special proceedings prescribed in this act.

Right to acquire title.

SEC. 14. For the purpose of acquiring such title the said company may present a petition praying for the appointment of commissioners of appraisal to the superior court held in the county in which the real estate described in the petition is situated. Such petition shall be signed and verified according to the rules and practice of such court. It must contain a description of the real estate which the company seeks to acquire; and it must, in effect, state that the company is duly incorporated, and that it is the intention of the company in good faith to construct and finish a railroad from and to the places named for that purpose in its articles of association; that the whole capital stock of the company

Petition presented.

Character of petition.

has been in good faith subscribed, as required by this act ; that the company has surveyed the line or route of its proposed road, and made a map or survey thereof, by which such route or line is designated, and that they have located their said road according to such survey, and filed such certificates of such location, signed by a majority of the directors of the company, in the clerk's office of the several counties through or into which the said road is to be constructed ; that the land described in the petition is required for the purpose of constructing or operating the proposed road ; and that the company has not been able to acquire title thereto, and the reason of such inability. The petition must also state the names and places of residence of the parties, so far as the same can by reasonable diligence be ascertained, who own or have, or claim to own or have, estates or interests in the said real estate : and if any such persons are infants, their ages, or as near as may be, must be stated ; and if any such persons are idiots or persons of unsound mind or are unknown, that fact must be stated, together with such other allegations and statements of liens or incumbrances in said real estate as the company may see fit to make. A copy of such petition, with a notice of the time and place the same will be presented to the superior court, must be served on all persons whose interests are to be affected by the proceedings at least ten days prior to the presentation of the same to the said court.

Names and places of residence to be given.

Copy of Petition must be sent to Superior Court.

Persons residing in this State must have service personally.

1. If the person on whom such service is to be made resides in this state, and is not an infant, idiot or person of unsound mind, service of a copy of such petition and notice must be made on him or his agent or attorney, authorized to contract for the sale of the real estate described in the petition, personally or by leaving the same at the usual place of residence of the person on whom service must be made as aforesaid, with some person of suitable age.

Non residents required to have Agents.

2. If the person on whom such service is to be made resides out of the state, and has an agent residing in this state, authorized to contract for the sale of the real estate described in the petition, such service may be made on such

agent, or on such person personally, out of the state, or it may be made by publishing the notice, stating briefly the object of the application, and giving a description of the land to be taken, in the state paper and in a paper printed in the county in which the land to be taken is situated, once in each week for one month next previous to the presentation of the petition. And if the residence of such person residing out of this state, but in any of the United States or any of the British colonies in North America is known, or can by reasonable diligence be ascertained, the company must, in addition to such publication as aforesaid, deposit a copy of the petition and notice in the postoffice, properly folded and directed to such person at the postoffice nearest to his place of residence, at least thirty days before presenting such petition to the court, and pay the postage chargeable thereon in the United States.

Public notice to be given.

3. If any person on whom such service is to be made is under the age of twenty-one years and resides in this state, such service shall be made as aforesaid, on his general guardian; or if he has no such guardian, then on such infant personally, if he is over the age of fourteen years; and if under that age, then on the person who has the care of, or with whom such infant resides.

Guardians notified for Infants.

4. If the person on whom such service is to be made is an idiot or of unsound mind, and resides in this state, such service may be made on the committee of his person or estate; or if he has no such committee, then on the person who has the care and charge of such idiot or person of unsound mind.

Respecting idiots.

5. If the person on whom such service is to be made is unknown, or his residence is unknown and cannot by reasonable diligence be ascertained, then such service may be made under the direction of the court, by publishing a notice, stating the time and place the petition will be presented, the object thereof, with a description of the land to be affected by the proceedings, in the state paper and in a paper printed in the county where the land is situated, once

Parties unknown are publicly notified by State papers.

in each week for one month previous to the presentation of such petition.

Duty of Court to appoint guardian for persons of unsound mind.

6. In case any party to be affected by the proceedings is an infant, idiot, or of unsound mind, and has no general guardian or committee, the court shall appoint a special guardian or committee to attend to the interests of such person in the proceedings, but if a general guardian or committee has been appointed for such person in this state, it shall be the duty of such general guardian or committee to attend to the interests of such infant, idiot, or person of unsound mind, and the court may require such security to be given by such general or special guardian or committee as it may deem necessary to protect the rights of such infant, idiot, or person of unsound mind, and all notices required to be served in the progress of the proceedings may be served on such general or special guardian or committee.

Security required.

Cases not provided for must be directed by Superior Court.

7. In all cases not herein otherwise provided for service of orders, notices, and other papers in the special proceedings authorized by this act, may be made as the superior court shall direct.

Allegations made against petition.

SEC. 15. On presenting such petition to the superior court as aforesaid, with proof of service of a copy thereof and notice as aforesaid, all or any of the persons whose estates or interests are to be affected by the proceedings may show cause against granting the prayer of the petition and may disprove any of the facts alleged in it. The court shall hear the proofs and allegations of the parties and if no sufficient cause is shown against granting the prayer of the petition it shall make an order for the appointment of three disinterested and competent freeholders who reside in the county or some adjoining county where the premises to be appraised, the compensation to be made to the owners or persons interested in the real estate proposed to be taken in such county for the purposes of the company, and to fix the time and place for the first meeting of the commissioners.

Freeholders appointed to appraise the estate.

Commissioners to take oath.

SEC. 16. The commissioners shall take and subscribe the usual oath taken by commissioners of award. Any one of them may issue subpoenas, administer oaths to witnesses, and

any three of them may adjourn the proceedings before them from time to time, in their discretion. Whenever they meet, except by the appointment of the court or pursuant to adjournment, they shall cause reasonable notice of such meeting to be given to the parties who are to be affected by their proceedings, or their attorney or agent. They shall view the premises described in the petition, and hear the proofs and allegations of the parties, and reduce the testimony, if any is taken by them, to writing; and after the testimony is closed in each case, and without any unnecessary delay, and before proceeding to the examination of any other claim, a majority of them all being present and acting, shall ascertain and determine the compensation which ought justly to be made by the company to the party or parties owning or interested in the real estate appraised by them; and in determining the amount of such compensation they shall not make an allowance or deduction on account of any real or supposed benefits which the parties in interest may derive from the construction of the proposed railroad. They or a majority of them shall also determine and certify what sum ought to be paid to a general or special guardian or committee of an infant, idiot, or person of unsound mind, or to an attorney appointed by the court to attend to the interest of any unknown owner the continuance of its corporate existence by virtue of this or any other act; and all persons who have been made parties to the proceedings shall be divested and barred of all right, estate and interest in such real estate during the corporate existence of the company as aforesaid. All real estate acquired by any company under and pursuant to the provisions of this act for the purpose of its incorporation, shall be deemed to be acquired for public use. Within twenty days after the confirmation of the report of the commissioners, as provided for in the seventeenth section of this act, either party may except, having first given notice in writing to the other, to the superior court to the appraisal and report of the commissioners. Such exceptions shall be heard by the superior court at any general or special term thereof, on such notice

Duties of Commissioners.

Compensation determined.

No person can claim right to real estate during the existence of the company.

Report of commissioners.

Exceptions heard by Superior Court.

thereof being given according to the rules and practice of said court. On the hearing of such exceptions the court may direct a new appraisal before the same or new commissioners in its discretion; the second report shall be final and conclusive on all the parties interested. If the amount of the compensation to be made by the company is increased by the second report, the difference shall be a lien on the land appraised, and shall be paid by the company to the parties entitled to the same, or shall be deposited in the bank, as the court shall direct; and if the amount is diminished the difference shall be refunded to the company by the party to whom the same may have been paid, and judgment therefor may be rendered by the court on the filing of the second report against the party liable to pay the same. Such appeal shall not affect the possession by such company of the land appraised or party in interest not personally served with notice of the proceedings, and who has not appeared for costs, expenses and counsel fees. They shall make a report to the superior court, signed by them or a majority of them, of the proceedings before them, with the minutes of the testimony taken by them, if any. Said commissioners shall be entitled to three dollars for their expenses and services for each day they are engaged in the performance of their duties, to be paid by the company.

SEC. 17. On such report being made by said commissioners, the company shall give notice to the parties or their attorneys to be affected by the proceedings, according to the rules and practice of said court, at a general or special term thereof, for the confirmation of such report, and the court shall thereupon confirm such report, and shall make an order containing a recital of the substance of the proceedings in the matter of the appraisal, and a description of the real estate appraised for which compensation is to be made: and shall also direct to whom the money is to be paid, or in what bank, and in what manner it shall be deposited by the company.

SEC. 18. A certified copy of the order so to be made as aforesaid shall be recorded at full length in the clerk's office

Final report.

Compensation regulated.

Report to Superior Court.

Compensation.

Company must notify Attorneys, &c.

Certified copy to be filed in Clerk's office.

of the county in which the land described in it is situated ; and thereupon, and on the payment or deposit by the company of the sums to be paid as compensation for the land, and for costs, expenses and counsel fees as aforesaid, and as directed by said order, the company shall be entitled to enter upon, to take possession of, and use the said land for the purposes of its incorporation during and when the same is made by others than the company, it shall not be heard except on a stipulation of the party appealing not to disturb such possession.

SEC. 19. If there are adverse and conflicting claimants to the money, or any part of it, to be paid as compensation for the real estate taken, the court may direct the money to be paid into the said court by the company and may determine who is entitled to the same and direct to whom the same shall be paid, and may in its discretion order a reference to ascertain the facts on which such determination and order are to be made.

Court must adjudicate the rights of conflicting claimants.

SEC. 20. The court shall appoint some competent attorney to appear for and protect the rights of any party in interest who is unknown or whose residence is unknown, and who has not appeared in the proceedings by an attorney or agent. The court shall also have power at any time to amend any defect or informality in any of the special proceedings authorized by this act as may be necessary, or to cause new parties to be added and to direct such further notices to be given to any party in interest as it deems proper ; and also to appoint other commissioners in place of any who shall die or refuse or neglect to serve or be incapable of serving.

Attorney appointed by Court to protect the rights of parties unknown or non-residents.

SEC. 21. In all cases of appraisal under this act where the mode or manner of conducting all or any of the proceedings to the appraisal and the proceedings consequent thereon are not expressly provided for by the statute the courts before whom such proceedings may be pending shall have the power to make all the necessary orders and give the proper directions to carry into effect the object and intent of this act ; and the practice in such cases

Court must take cognizance of all proceedings not provided for in this act.

shall conform as near as may be to the ordinary practice in such courts.

Change of ownership not to affect appraisal.

SEC. 22. When any proceedings of appraisal shall have been commenced, no change of ownership by voluntary conveyance or transfer of the real estate or any interest therein or of the subject matter of the appraisal, shall in any manner affect such proceedings, but the same may be carried on and perfected as if no such conveyance or transfer had been made or attempted to be made.

Defective title how remedied.

SEC. 23. If at any time after an attempt to acquire title by appraisal of damages or otherwise it shall be found that the title thereby attempted to be acquired is defective, the company may proceed anew to acquire or perfect such title in the same manner as if no appraisal had been made, and at any stage of such new proceedings the court may authorize the corporation, if in possession, to continue in possession, and if not in possession, to take possession and use such real estate during the pendency and until the final conclusion of such new proceedings, and may stay all actions or proceedings against the company on account thereof, on such company paying into court a sufficient sum or giving security as the court may direct to pay the compensation therefor when finally ascertained, and in every such case the party interested in such real estate may conduct the proceedings to a conclusion if the company delays or omits to prosecute the same.

Maps of route to be made.

SEC. 24. Every company formed under this act, before constructing any part of their road into or through any county named in their articles of association, shall make a map and profile of the route intended to be adopted by such company in such county, which shall be certified by the president and engineer of the company or a majority of the directors and filed in the office of the clerk of each county through which the road is to be made. The company shall give written notice to all actual occupants of the land over which the route of the road is so designated and which has not been purchased by or given to the company of the route so designated. Any party feeling aggrieved by the proposed location may, within fifteen days after receiving notice as

Notice given to occupants of land.

aforesaid, apply to the superior court by petition duly verified, setting forth his objections to the route designated, and the said court may if it considers sufficient cause therefor to exist, appoint three disinterested persons, one of whom must be a practical engineer, commissioners to examine the proposed route, and after hearing the parties, to affirm or alter the same as may be consistent with the just rights of all parties and the public, but no alteration of the route shall be made except by the concurrence of the commissioner who is a practical civil engineer. The determination of the commissioners shall within thirty days after their appointment be made and certified by them and the certificate filed in the office of the county clerk. Said commissioners shall each be entitled to three dollars per day for their expenses and services, to be paid by the person who applied for their appointment, and if the proposed route of the road is altered or changed by the commissioners the company shall refund to the applicant the amount so paid.

SEC. 25. The directors of every company formed under this act may by a vote of two-thirds of their whole number at any time alter or change the route or any part of the route of their road if it shall appear to them that the line can be improved thereby; and they shall make and file in the clerk's office of the proper county a survey, map and certificate of such alteration or change; and shall have the same right and power to acquire title to any lands required for the purposes of the company in such altered or changed route, as if the road had been located there in the first instance; and no such alteration shall be made in any city or village after the road shall have been constructed, unless the same is sanctioned by a vote of two-thirds of the corporate authorities of said city or trustees of said village; and in case of any alteration made in the route of any railroad after the company has commenced grading, compensation shall be made to all persons for injury so done to any lands that may have been donated to the company. All the provision of this act relative to the first location and to acquiring title to

Superior Court petitioned when route is objectionable.

No alteration of route allowable.

Time of certificate.

Compensation.

Discretionary with Directors to change route of Railroad for its improvement.

Certificate of alteration to be filed in Clerks office.

No change made in City, unless sanctioned by majority of corporators.

Compensation for lands,

land shall apply to every such new or altered portion of the route.

Highways, Turnpike, &c., to prove no obstruction to Railroads.

SEC. 26. Whenever the track of a railroad constructed by a company formed under this act shall cross a railroad, a highway, turnpike or plankroad, such highway, turnpike or plankroad may be carried under or over the track as may be found most expedient; and in cases where an embankment or cutting shall make a change in the line of such highway, turnpike or plankroad desirable, with a view to a more easy ascent or descent the said company may take such additional lands for the construction of such road, highway, turnpike or plankroad on such new line as may be deemed requisite by the directors. Unless the lands so taken shall be purchased for the purposes aforesaid compensation therefor shall be ascertained in the manner prescribed in this act for acquiring title to real estate, and duly made by said corporation to the owners and persons interested in such lands. The same when so taken shall become part of such intersecting highway, turnpike or plankroad in such manner and by such tenure as the adjacent parts of the same highway, turnpike or plankroad may be held for highway purposes.

Power of Sec. State to grant land.

SEC. 27. The secretary of state shall have power to grant to any railroad company, formed under this act, any land belonging to the people of this state which may be required for the purposes of their road, on such terms as may be agreed on by them, or such company may acquire title thereto by appraisal, as in the case of lands owned by individuals; and if any land belonging to a county or town is required by any company for the purposes of the road, the county or town officers having the charge of such land may grant such land to such company for such compensation as may be agreed upon.

Superior Court empowered to authorize guardians to sell land of unsound persons, for corporate purposes.

SEC. 28. In case any title or interest in real estate required by any company formed under this act for the purpose of its incorporation, shall be vested in any trustee not authorized to sell, release and convey the same, or in any infant, idiot or person of unsound mind, the superior court shall

have power, by a summary proceeding, on petition, to authorize and empower such trustee or the general guardian or committee of such infant, idiot or person of unsound mind, to sell and convey the same to such company for the purpose of its incorporation, on such terms as may be just; and in case any such infant, idiot or person of unsound mind, has no general guardian or committee, the said court may appoint a special guardian or committee for the purpose of making such sale, release or conveyance, and may require such security from such general or special guardian or committee as said court may deem proper. But before any conveyance or release authorized by this section shall be executed, the terms on which the same is to be executed shall be reported to the court on oath; and if the court is satisfied that such terms are just to the party interested in such real estate, the court shall confirm the report and direct the proper conveyance or release to be executed, which shall have the same effect as if executed by an owner of said land, having legal power to sell and convey the same.

Court may appoint special guardian.

Terms reported to court.

SEC. 29. Every corporation formed under this act shall have power:

Corporative powers.

1. To cause such examination and surveys for its proposed railroad to be made as may be necessary to the selection of the most advantageous route; and for such purpose, by its officers or agents and servants, to enter upon the lands or waters of any person, but subject to responsibility for all damages which shall be done thereto.

Responsibility of Company.

2. To take and hold such voluntary grants of real estate and other property as shall be made to it to aid in the construction, maintenance and accommodation of its railroad; but the real estate received by voluntary grant shall be held and used for the purposes of such grant only.

Voluntary grants.

3. To purchase, hold and use all such real estate and other property as may be necessary for the construction and maintenance of its railroad and the station and other accommodations necessary to accomplish the object of its incorporation.

Holding property

4. To lay out its road not exceeding twelve rods in width, and to construct the same, and for the purpose of cuttings and

Grade of Road.

embankments to take as much more land as may be necessary for the proper construction and security of the road, and to cut down any standing trees that may be in danger of falling on the road, making compensation therefor as provided in this act for lands taken for the use of the company.

Obstruction not allowable.

5. To construct their road across, along, or upon any stream of water, water course, street, highway, plankroad, turnpike or canal which the route of its road shall intersect or touch, but the company shall restore the stream or water course, street, highway, plankroad and turnpike road thus intersected or touched, to its former state or to such state as not unnecessarily to have impaired its usefulness. Nothing in this act contained shall be construed to authorize the erection of any bridge or any other obstructions across, in, or over any stream or lake navigated by steam or sail-boats, at the place where any bridge or other obstructions may be proposed to be placed, nor to authorize the construction of any railroad not already located in, upon, or across any streets in any city without the assent of the corporation of such city.

Conjunction of Railroads.

6. To cross, intersect, join and unite its railroad with any other railroad before constructed, at any point on its route, and upon the grounds of such other company, with the necessary turnouts, sidings and switches and other conveniences in furtherance of the objects of its connections. And every company whose railroad is or shall be hereafter intersected by any new railroad shall unite with the owners of such new railroad in forming such intersections and connections and grant the facilities aforesaid, and if the two corporations cannot agree upon the amount of compensation to be made therefor or the points and manner of such crossings and connections the same shall be ascertained and determined by commissioners to be appointed by the court as if provided in this act in respect to acquiring title to real estate.

Conveyance of persons and property.

7. To take and convey persons and property on their railroad by the power or force of steam or of animals, or by any mechanical power, and to receive compensation therefor.

8. To erect and maintain all necessary and convenient buildings, stations, fixtures and machinery for the accommodation and use of their passengers, freight and business.

Erection of necessary buildings.

9. To regulate the time and manner in which passengers and property shall be transported and the compensation to be paid therefor ; but such compensation for any passenger and his ordinary baggage, shall not exceed five cents per mile.

Regulation of time and manner of transportation.

10. From time to time to borrow such sums of money as may be necessary for completing and finishing or operating their railroad, and to issue and dispose of their bonds for any amount so borrowed, and to mortgage their corporate property and franchises to secure the payment of any debt contracted by the company for the purposes aforesaid, and the directors of the company may confer on any holder of any bond issued for money borrowed, as aforesaid, the right to convert the principal due or owing thereon into stock of said company at any time not exceeding ten years from the date of the bond, under such regulations as the directors may see fit to adopt.

Manner of raising funds.

SEC. 30. Every conductor, baggage master, engineer, brakeman, or other servant of any railroad corporation employed in a passenger train, or at stations for passengers, shall wear upon his hat or cap a badge, which shall indicate his office and the initial letters of the style of the corporation by which he is employed. No conductor or collector without such badge shall be entitled to demand or receive from any passenger any fare or ticket, or to exercise any of the powers of his offices ; and no officer or servant without such badge shall have authority to meddle or interfere with any passengers, his baggage or property.

Railroad servants required to wear a badge.

SEC. 31. Every railroad corporation formed under this act, shall make an annual report to the governor of the operations of the year ending on the thirtieth day of September, which report shall be verified by the oaths of the treasurer or president and acting superintendent of operations, and be filed in office of the superintendent of public

Annual report.

Report to be verified on oath and filed in office of Superintendent of Public works.

works by the fifteenth day of November in each year, and shall state :

Statements made

1. The amount of capital as by charter ;
2. The amount of stock subscribed ;
3. The amount paid in as by last report ;
4. The total amount now of capital stock paid in ;
5. The funded debt by last report ;
6. The total amount now of funded debt ;
7. The floating debt as by last report ;
8. The amount now of floating debt ;
9. The total amount now of funded and floating debt ;
10. The average rate per annum of interest on funded debt ;

COST OF ROAD AND EQUIPMENT.

11. For graduation and masonry by last report ;
12. The total amount now expended for the same.
13. The amount for bridges by last report ;
14. The total amount now expended for the same ;
15. The amount for superstructure, including iron, by last report ;
16. Total amount now expended for the same ;
17. For passenger and freight stations, building and fixtures by last report ;
18. Total amount now expended for the same ;
19. For engine and car houses, machine shops, and machinery and fixtures by last report ;
20. Total amount now expended for the same ;
21. For land, damages and fences by last report ;
22. Total amount now expended for the same ;
23. For locomotives and fixtures and snow plows by last report ;
24. Total amount now expended for the same ;
25. For passenger and baggage cars by last report ;
26. Total amount now expended for the same ;
27. For freight cars as by last report ;
28. Total amount now expended for the same ;
29. For engineering and agencies by last report ;

- Statements made.
51. Average rate of speed adopted by freight trains when in motion ;
 52. Average weight in tons, of two thousand pounds, of passenger trains exclusive of passengers and baggage ;
 53. Average weight in tons of freight trains exclusive of freight ;
 54. The amount of freight, specifying the quantity in tons, of the products of the forest, of animals, of vegetable food, other agricultural products, manufactures, merchandise and other articles.

EXPENSES OF MAINTAINING THE ROAD OR REAL ESTATE OF THE CORPORATION.

56. For repairs of road-bed and railway, excepting cost of iron, which shall be the cost of labor and materials used during the year, also use and cost of engines engaged in ballasting, also the renewal and repairs of gravel and stone cars and all items of cost connected with keeping the road in order ;
57. For depreciation of way ;
58. Length, in feet, of iron used in renewals, with weight and cost ;
59. Repairs of buildings ;
60. Repairs of fences and gates ;
61. Taxes on real estate ;
62. Total expenses of maintaining road or real estate for the year ;
63. Expenses of machinery or personal property of the corporation ;
64. Repairs of engines and tenders ;
65. Depreciation of engines and tenders ;
66. Repairs of passenger and baggage cars ;
67. Depreciation of passenger and baggage cars ;
68. Repairs of freight cars ;
69. Depreciation of freight cars ;
70. Repairs of tools and machinery in shops ;

71. Incidental expenses, including fuel, oil, clerks, watchmen about shops; Statements made.
72. Total expenses of repair of machinery;
73. Office expenses, stationery;
74. Agents and clerks;
75. Labor, handling freight, loading and unloading;
76. Porters, watchmen and switchmen;
77. Wood and water station attendants;
78. Conductors, baggage and brakemen;
79. Enginemen and firemen;
80. Fuel, (first cost and labor preparing for use;)
81. Oil and waste for engines and tenders;
82. Oil and waste for freight cars;
83. Oil and waste for baggage and passenger cars;
84. Loss and damage of goods and baggage;
85. Damages for injuries of persons;
86. Damages to property, including damages by fire, cattle killed on the road;
87. General superintendence;
88. Contingencies;
89. Total expenses of operating road;
90. The above statements are to be made without reference to the sums actually received or paid during the year.

The following statement of the earnings and cash receipts and payments are required:

91. From passengers;
92. From freight;
93. From other sources;
94. The above to be stated without reference to the amount actually collected.
95. Receipts during the year from freight;
96. From passengers;
97. From other sources, specifying what in detail;
98. Payment from transportation expenses;
99. For interest;
100. Dividends on stock, amount and rate per cent.;
101. Payment to surplus fund and total amount to said fund;

Statements made.

102. The number of persons injured in life and limb, and the cause of the injury, and whether passengers or persons employed; whether any such accidents have arisen from carelessness or negligence of any person in the employment of the corporation, and whether such person is retained in the service of the corporation.

103. It shall be the duty of the proper state officer to arrange the information contained in such reports in a tabular form and prepare the same together with the said reports in a single document for printing for the use of the legislature, and report the same to the legislature on the first day of its session in each year.

104. All the items under the heads of expenses of maintaining the road or real estate of the corporation; expenses of machinery, of personal property of the corporation; expenses of use of road and machinery or operating the road, shall be carried out under two heads, the one showing the cost of freight transportation, the other the cost of passenger transportation.

105. The provisions of this section shall apply to all existing railroad corporations, and the report of the said existing railroad corporations, made in pursuance of the provisions of this section, shall be deemed to be a full compliance with any existing law or resolution requiring annual reports to be made by such corporation.

Penalty.

SEC. 32. Any such corporation which shall neglect to make the report as is provided in the preceding section shall be liable to a penalty of five hundred and fifty dollars, to be sued for in the name of the state of North Carolina for their use, in the superior court of Wake county.

Legislature may
reduce profits up-
on Road.

SEC. 33. The legislature may, when any such railroad shall be opened for use, from time to time alter or reduce the rate of freight, fare, or other profits upon such road, but the same shall not, without the consent of the corporation, be so reduced as to reduce said profits less than ten per centum per annum on the capital actually expended, nor unless on an examination of the amounts received and expended, to be made by the superintendent of public works and the auditor,

they shall ascertain that the net income derived by the company from all sources for the year then last past shall have exceeded an annual income of ten per cent. upon the capital of the corporation actually expended.

SEC. 34. If any passenger shall refuse to pay his fare, or violate the rules of the corporation, it shall be lawful for the conductor of the train and the servants of the corporation to put him and his baggage out of the cars, using no unnecessary force, at any usual stopping place or near any dwelling house, as the conductor shall elect, on stopping the train.

Ejection of passengers who violated the rules of corporation.

SEC. 35. Every such corporation shall start and run their cars for the transportation of passengers and property at regular times to be fixed by public notice, and shall furnish sufficient accommodation for the transportation of all such passengers and property as shall, within a reasonable time previous thereto, be offered for transportation at the place of starting and the junction of other railroads and at usual stopping places established for receiving and discharging way passengers and freights for that train, and shall take, transport and discharge such passengers and property at, from, and to such places on the due payment of the freight or fare legally authorized therefor, and shall be liable to the party aggrieved, in action for damages, for any neglect or refusal in the premises.

Rules for transportation,

SEC. 36. A check shall be affixed to every parcel of baggage when taken for transportation by the agent or servant of such corporation, if there is a handle, loop or fixture so that the same can be attached upon the parcel or baggage so offered for transportation, and a duplicate thereof given to the passenger or person delivering the same on his behalf; and if such check be refused on demand the corporation shall pay to such passenger the sum of ten dollars to be recovered in a civil action; and further, no fare or toll shall be collected or received from such passenger, and if such passenger shall have paid his fare the same shall be refunded by the conductor in charge of the train; and on producing said check if his baggage shall not be delivered

Check and duplicate for baggage.

Corporation liable for loss of baggage.

to him, he may himself be a witness in any suit brought by him to prove the contents and value of said baggage.

Misdemeanor

SEC. 37. In forming a passenger train, baggage, freight, merchandise or lumber cars shall not be placed in rear of the passenger cars; and if they or any of them shall be so placed, the officer or agent who so directed or knowingly suffered such arrangement, and the conductor of the train, shall be deemed guilty of a misdemeanor and be punished accordingly.

Intoxication a misdemeanor.

SEC. 38. If any person shall while in charge of a locomotive engine running upon the railroad of any such corporation or while acting as the conductor of a car or train of cars on any such railroad, be intoxicated, he shall be deemed guilty of a misdemeanor.

Injuries to Railroad a misdemeanor.

SEC. 39. If any person or persons shall wilfully do or cause to be done, any act or acts whatever whereby any building, construction or work of any railroad corporation or any engine, machine or structure or any matter or thing appertaining to the same shall be stopped, obstructed, impaired, weakened, injured or destroyed, the person or persons so offending shall be guilty of a misdemeanor, and shall forfeit and pay to the said corporation treble the amount of damages sustained by means of such offense.

Suit may be brought.

SEC. 40. All penalties imposed by this act may be sued for in the name of the state of North Carolina; and if such penalty be for a sum not exceeding one hundred dollars, then such suit may be brought before a justice of the peace, and may be commenced by serving a summons on any director of such company.

Chart of Railroad.

SEC. 41. Every corporation shall, within a reasonable time after their road shall be constructed, cause to be made a map and profile thereof, and of the land taken or obtained for the use thereof, and file the same in the offices for recording deeds in each county through which such parts of said roads shall pass. Every such map shall be drawn on a scale and on paper, to be designated by the superintendent of public works and certified and signed by the president or engineer of such corporation.

SEC. 42. In case any passenger on any railroad shall be injured while on the platform of a car or on any baggage, wood or freight car, in violation of the printed regulations of the company posted up at the time in a conspicuous place inside of its passenger cars then in the train, such company shall not be liable for the injury: *Provided*, Said company at the time furnished room inside its passenger cars sufficient for the proper accomodation of the passengers.

Injury to passengers.

SEC. 43. If any corporation formed under this act shall not within two years after its articles of association are filed and recorded in the office of the secretary of state, begin the construction of its road and expend thereon ten per cent. of the amount of its capital, or shall not finish the road and put it in operation in ten years from the time of filing its articles of association as aforesaid, its corporate existence and powers shall cease.

Railroad not constructed at the specified time, their corporation existence ceases..

SEC. 44. The legislature may at any time annul or dissolve any corporation formed under this act; but such dissolution shall not take away or impair any remedy given against any such corporation, its stockholders or officers for any liability which shall have been previously incurred.

Legislature may annul.

SEC. 45. All existing railroad corporations within this state shall respectively have and possess all the powers and privileges contained in this act; and they shall be subject to all the duties, liabilities and provisions not inconsistent with the provisions of their charter contained in sections nine, thirteen, fourteen, fifteen, sixteen, seventeen, eighteen, nineteen, twenty, twenty-one, twenty-three, twenty-four, twenty-five, twenty-six, twenty-seven, twenty-eight (except subdivision nine,) thirty, thirty-one, thirty-two, thirty-three, thirty-four, thirty-five, thirty-six, thirty-seven, thirty-eight, thirty-nine, forty, forty-one, forty-two, forty-three, forty-four, forty-five, forty-six, of this act.

Rights and privileges.

SEC. 46. Whenever two railroad companies shall, for a portion of their respective lines, embrace the same location of line, they may by agreement provide for the construction of so much of said line as is common to both of them, by one of the companies, and for the manner and terms upon

Railroads embracing the same location of line.

which the business thereon shall be performed. Upon the making of such agreement, the company that is not to construct the part of the line which is common to both, may alter and amend its articles of association so as to terminate its line at the point of intersection, and may reduce its capital to a sum not less than five thousand dollars for each mile of the road proposed to be constructed in such amended articles of association.

Location of Railroad in an adjoining State

SEC. 47. Whenever after due examination it shall be ascertained by the directors of any railroad company that a part of the line of railroad proposed to be made between any two points in this state ought to be located and constructed in an adjoining state, it may be so located and constructed by a vote of two-thirds of all the directors, and the sections of said railroad within this state shall be deemed a connected line according to the articles of association, and the directors may reduce the capital specified in their articles of association to such amount as may be deemed proper, but not less than the amount required by law for the number of miles of railroad to be actually constructed in this state.

Unclaimed freight.

SEC. 48. Every railroad company which shall have had unclaimed freight, not perishable, in its possession for a period of one year at least, may proceed to sell the same at public auction, and out of the proceeds may retain the charges of transportation and storage of such freight and the expenses of advertising and sale thereof; but no such sale shall be made until the expiration of four weeks from the first publication of notice of such sale in a state paper and also in a newspaper published at or nearest the place at which such freight was directed to be left, and also at the place where such sale is to take place; and said notice shall contain a description of such freight, the place at which and the time when the same was left, as near as may be, together with the name of the owner or person to whom consigned, if known, and expenses incurred for advertising shall be a lien upon such freight in a ratable proportion, according to the value of each article or package or parcel, if more than one.

Publication thereof.

SEC. 49. In case such unclaimed freight shall in its nature be perishable, then the same may be sold as soon as it can be on giving the notice required in the preceding section, after its receipt at the place where it was directed to be left.

Perishable freight.

SEC. 50. Such railroad company shall make an entry of the balance of the proceeds of the sale, if any, of each parcel of freight owned by or consigned to the same person, as near as can be ascertained, and at any time within five years thereafter, shall refund any surplus so retained to the owner of such freight, his heirs or assigns, on satisfactory proof of such ownership; if no person shall claim such surplus within five years, said surplus shall be paid into the fund used for the support of the University of the state.

Unreclaimable funds to be used for University of the State.

SEC. 51. Any railroad corporation on which road steam is used as the motive power may apply to the governor to commission such persons as the said corporation may designate to act as policeman for said corporation.

Police established

SEC. 52. The governor upon such application may appoint such persons or so many of them as he may deem proper to be such policemen, and shall issue to such person or persons so appointed a commission to act as such policemen.

Governor to appoint commission

SEC. 53. Every policeman so appointed shall, before entering upon the duties of his office, take and subscribe the usual oath; such oath with a copy of the commission shall be filed with the secretary of state and a certificate thereof by said secretary be filed with the clerk of each county through or into which the railroad for which such policeman is appointed may run and in which it is intended he shall act, and such policemen shall severally possess within the limits of the property of the county all the powers of policemen in the several towns, cities and villages in which they shall so be authorized to act as aforesaid.

Oath administered.

SEC. 54. Such railroad police shall, when on duty, severally wear a metallic shield with the words "Railway Police," and the name of the corporation for which appointed inscribed thereon, and said shield shall always be worn in plain view except when employed as detectives.

Badge of Police-men.

Compensation.

SEC. 55. The compensation of such police shall be paid by the companies for which the policemen are respectively appointed as may be agreed on between them.

Dismissal of Police.

SEC. 56. Whenever any company shall no longer require the services of any policeman so appointed as aforesaid they may file a notice to that effect in the several offices in which notice of such appointment was originally filed and thereupon the power of such officer shall cease and be determined.

Transfer of capital stock.

SEC. 57. Any railroad corporation created by the laws of this state or its successors, now being the lessee of the road of any other railroad corporation, may take a surrender or transfer of the capital stock of the stockholders or any of them, in the corporation whose road is held under lease and issue in exchange therefor the like additional amount of its own capital stock at par or on such other terms and conditions as may be agreed upon between the two corporations; and whenever the greater part of the capital stock of any such corporation shall have been so surrendered or transferred the directors of the corporation taking such surrender or transfer shall thereafter, on a resolution electing so to do to be entered on their minutes become ex-officio the directors of the corporation whose road is so held under lease and shall manage and conduct the affairs thereof as provided by law; and whenever the whole of said capital stock shall have been so surrendered or transferred and a certificate thereof filed in the office of the secretary of state under the common seal of the corporation to whom such surrender or transfer shall have been made, the estate, property, rights, privileges and franchises of the said corporation whose stock shall have been so surrendered or transferred shall thereupon vest in and be held and enjoyed by the said corporation to whom such surrender or transfer shall have been made as fully and entirely and without charge or diminution as the same were before held and enjoyed, and be managed and controlled by the board of directors of the said corporation to whom such surrender or transfer of the said stock shall have been made in the corporate name of such corporation. The rights of any stockholder not so surrendering or transferring his stock

Certificate filed in office of Sec. of State.

shall not be in any way affected thereby, nor shall existing liabilities or the rights of creditors of the corporation where stock shall have been so surrendered or transferred be in any way affected or impaired by this act.

SEC. 58. It shall and may be lawful for any railroad company or other corporation, organized under the laws of this state, or of this state and any other state, and operating a railroad or bridge either wholly within, or partly within and partly without this state, to merge and consolidate its capital stock, franchises and property with the capital stock, franchises and property of any other railroad company or companies organized under the laws of this state, or under the laws of this state and any other state, or under the laws of any other state or states, whenever the two or more railroads of the companies or corporation so to be consolidated shall or may form a continuous line of railroad with each other or by means of any intervening railroad, bridge or ferry.

Consolidation of Railroad.

SEC. 59. Said consolidation shall be made under the conditions, provisions and restrictions, and with the powers hereafter in this act mentioned and contained, that is to say:

Provisions of this act adhered to.

1. The directors of the companies proposing to consolidate may enter into a joint agreement under the corporate seal of each company for the consolidation of said companies and railroads, and prescribing the terms and conditions thereof, the mode of carrying the same into effect, the name of the new corporation, the number and names of the directors and other officers thereof, and who shall be the first directors and officers, and their places of residence, the number of shares of the capital stock, the amount or par value of each share, and the manner of converting the capital stock of each of the said companies into that of the new corporation, and how and when directors and officers shall be chosen, with such other details as they shall deem necessary to perfect such new organization and the consolidation of said companies or railroads.

Corporate seal.

Details of corporation.

2. Said agreement shall be submitted to the stockholders of each of the said companies or corporations at a meeting

meeting of stockholders.

thereof called separately for the purpose of taking the same into consideration; due notice of the time and place of holding said meeting, and the object thereof, shall be given by each company to its stockholders by written or printed notices, addressed to each of the persons in whose names the capital stock of such company stands on the books thereof, and delivered to such persons respectively or sent to them by mail when their postoffice address is known to the company, at least thirty days before the time of holding such meeting, and also by a general notice, published daily for at least four weeks in some newspaper printed in the city, town or county where such company has its principal office or place of business; and at the said meeting of stockholders the agreement of the said directors shall be considered and a vote by ballot taken for the adoption or rejection of the same, each share entitling the holder thereof to one vote, and said ballots shall be cast in person or by proxy, and if two-thirds of all the votes of all the stockholders shall be for the adoption of said agreement, then that fact shall be certified thereon by the secretaries of the respective companies under the seals thereof, and the agreement so adopted, or a certified copy thereof shall be filed in the office of the secretary of state, and shall from thence be deemed and taken to be the agreement and act of consolidation of the said companies; and a copy of the said agreement and act of consolidation, duly certified by the secretary of state under his official seal, shall be evidence in all courts and places of the existence of said new corporation, and that the foregoing provisions of this act have been fully observed and complied with.

Time specified.

Publication of notice.

Vote by ballot.

Certificate to be filed in office of Sec. of State.

When considered one corporation.

SEC. 60. Upon the making and perfecting of such agreement and act of consolidation as hereinbefore provided, and filing the same or a copy thereof in the office of the secretary of state as aforesaid, the said corporations, parties thereto, shall be deemed and taken to be one corporation by the name provided in said agreement and act, but such act of consolidation shall not release such new corporations from

any of the restrictions, liabilities or duties of the several corporations so consolidated.

SEC. 61. Upon the consummation of said act of consolidation as aforesaid, all and singular the rights, privileges, exemptions and franchises of each of said corporations, parties to the same, and all the property, real, personal and mixed, and all debts due on whatever account to either of said corporations as well as all stock subscriptions and other things in action belonging to either of said corporations shall be taken and deemed to be transferred to and vested in such new corporation without further act or deed; and all claims, demands, property, rights of way and every other interest, shall be as effectually the property of the new corporations as they were of the former corporation, parties to the said agreement and act, and the title to all real estate taken by deed or otherwise, under the laws of this state vested in either of such corporations, parties to said agreement and act, shall not be deemed to revert or be in any way impaired by reason of this act or any thing done by virtue thereof, but shall be vested in the new corporation by virtue of such act of consolidation.

SEC. 62. The rights of all creditors and all liens upon the property of either of said corporations, parties to said agreement and act, shall be preserved unimpaired, and the respective corporations, shall be deemed to continue in existence to preserve the same and all debts and liabilities incurred by either of said corporations, except mortgages, shall thenceforth attach to such new corporation and be enforced against it and its property to the same extent as if said debts or liabilities had been incurred or contracted by it. No suit, action or other proceeding pending before any court or tribunal in which either of said railroad companies is a party shall be deemed to have abated or been discontinued by the agreement and act of consolidation as aforesaid, but the same may be conducted in the name of the existing corporation to final judgment, or such new corporation may be, by order of the court, on motion, substituted as a party. Suits may be brought and maintained against such new corporation in

Corporate
rights made bind-
ing.

the courts of this state for all causes of action in the same manner as against other railroad corporations therein.

Real estate may
be taxed.

SEC. 63. The real estate of such new corporation, situate within this state, shall be assessed and taxed in the several towns and cities where the same shall be situated in like manner as the real estate of other railroad corporations is or may be taxed and assessed and such proportion of the capital stock and personal property of such new corporation shall in like manner be assessed and taxed in this state, as the number of miles of its railroad situate in this state bears to the number of miles of its railroad situate in the other state or states.

Mileage.

SEC. 64. Nothing in this act contained shall be so construed as to allow such consolidated company to charge a higher rate of fare per passenger per mile upon any part of or portion of such consolidated line than is now allowed by law to be charged by each existing company respectively, nor shall this act apply to street railroads.

Parallel lines not
to consolidate.

SEC. 65. No companies or corporations of this state whose railroads run on parallel or competing lines shall be authorized by this act to merge or consolidate.

SEC. 66. This act shall take effect from its ratification.

Ratified the 8th day of February, A. D. 1872.

CHAPTER CXXXIX.

AN ACT TO PREVENT THE FELLING OR CUTTING TREES INTO THE
RUN OF UPPER BROAD CREEK, CRAVEN COUNTY.

Penalty.

SECTION 1. *The General Assembly of North Carolina do enact*, That every person who shall cut or fell trees into the run of Upper Broad Creek, in the county of Craven, from its extreme head near the Beaufort county line to its mouth or into the run of any branch stream or tributary flowing into the same or in any wise obstruct the run of said creek

or of such branch stream or tributaries flowing into the same, shall for every such offence be deemed guilty of a misdemeanor and shall be fined not less than fifty dollars and not more than one hundred dollars.

SEC. 2. This act shall be in force from its ratification.

When act to take effect.

Ratified the 8th day of February, A. D., 1872.

CHAPTER CXL.

AN ACT TO REPEAL CHAPTER TWO HUNDRED AND SEVENTY-FOUR OF THE LAWS OF ONE THOUSAND EIGHT HUNDRED AND SEVENTY AND ONE THOUSAND EIGHT HUNDRED AND SEVENTY-ONE.

SECTION 1. *The General Assembly of North Carolina do enact*, That chapter two hundred and seventy-four of the laws of one thousand eight hundred and seventy and one thousand eight hundred and seventy-one be and the same is hereby repealed. Laws repealed.

SEC. 2. This act shall be in force from and after its ratification. When act to take effect.

Ratified the 8th day of February, A. D. 1872.

CHAPTER CXLI.

AN ACT TO MAKE DUTCHMAN CREEK A LAWFUL FENCE TO A CERTAIN EXTENT IN THE COUNTY OF DAVIE.

SECTION 1. *The General Assembly of North Carolina do enact*, That Dutchman Creek shall be a lawful fence in the county of Davie from the bridge near James Haines on the public road, (leading from Mocksville to Fulton,) to Dulin and Sheeks' mill. Location of boundary:

Penalty.

SEC. 2. That if any person or persons shall fell timber or place other obstructions in Dutchman Creek, they shall be deemed guilty of a misdemeanor and on conviction shall be subject to fine or imprisonment, at the discretion of the court.

When act to be in force

SEC. 3. This act shall take effect from and after its ratification.

Ratified the 8th day of February, A. D. 1872.

CHAPTER CXLII.

AN ACT TO CONSTRUCT AND ESTABLISH A TURNPIKE ROAD FROM CATAWBA VALE, IN THE COUNTY OF McDOWELL, TO FAIR VIEW, IN BUNCOMBE COUNTY.

Corporate body.

SECTION 1. *The General Assembly of North Carolina do enact*, That S. Worthing, C. S. Mooning, Thos. Y. Lyttle, Thos. Ledbetter, Joseph Garner, D. Stradley and G. W. Fletcher and such other persons as they may associate with them are hereby, for the purposes hereinafter designated, declared a body politic and corporate under the name and style of the "Catawba Vale and Fair View Turnpike Company," for the purpose of constructing a turnpike road between Catawba Vale, in the county of McDowell, and Fair View, in the county of Buncombe, and under said corporate name may sue and be sued, plead and be impleaded, and have their successors.

Corporate name.

Location of Turnpike.

Books of subscription.

SEC. 2. That any one of them may open books at the following places, namely: Catawba Vale, in McDowell county, Crooked creek and Broad river, in McDowell county; at Fair View, in Buncombe county, and at Hendersonville, in Henderson county, and keep them open until the whole of the capital stock of said company, which shall consist of three hundred shares, of ten dollars each, shall be subscribed..

Capital stock.

SEC. 3. That the stockholders shall choose annually a board of not less than three directors, which directors, shall choose a president who, with the said directors, shall continue in office until the next annual meeting or until their successors shall be elected; but no failure to elect shall work a forfeiture, and in the absence of the president a majority of the board of directors may appoint a president *pro tem.* for the despatch of business, and the board may supply a vacancy in their body until the next annual meeting after such vacancy shall occur.

Directors chosen annually.

President chosen by directors.

Vacancies how filled.

SEC. 4. That in all other things the said company shall be governed by the provisions of the act in relation to turn-pike and plank road companies, as contained in the revised code, chapter sixty-one, and shall have all the necessary and usual privileges of making rules, regulations and by-laws for its government, condemning land, collecting taxes or tolls, requiring bonds of its officers and representatives of stock by proxies.

Rights and privileges granted.

SEC. 5. This act shall be in force from and after its ratification.

When act to be in force.

Ratified the 5th day of February, A. D. 1872.

CHAPTER CXLIII.

AN ACT TO REPEAL CHAPTER TWO HUNDRED AND SIXTY-SEVEN OF THE LAWS OF ONE THOUSAND EIGHT HUNDRED AND SIXTY-EIGHT AND ONE THOUSAND EIGHT HUNDRED AND SIXTY-NINE.

SECTION 1. *The General Assembly of North Carolina do enact,* That chapter two hundred and sixty-seven of the public laws of one thousand eight hundred and sixty-eight and one thousand eight hundred and sixty-nine, ratified the twelfth day of April, one thousand eight hundred and sixty-nine, be and the same is hereby repealed.

Laws repealed.

When act to take effect.

SEC. 2. That this act shall be in force from and after its ratification.

Ratified the 8th day of February, A. D. 1872.

CHAPTER CXLIV.

AN ACT TO ANNEX A PART OF NEW HANOVER COUNTY TO
SAMPSON COUNTY.

Annexation.

SECTION 1. *The General Assembly of North Carolina do enact*, That that portion of New Hanover county included within the following boundaries to wit: beginning at Beatty's bridge, on the east side of Black River, thence to the head of White Oak, thence to the head of W. J. Newton's mill pond, thence to the head of B. B. Newkirk's mill pond, thence down his mill and creek to the Duplin county line, thence with the Duplin and New Hanover county line to the Sampson county line, thence with the Sampson and New Hanover line to Black River, thence across Black River with the Sampson and New Hanover line to South River, the Bladen county line, thence down South River to the mouth thereof, thence down Black River to the beginning, be and the same portion of the county of New Hanover aforesaid, is hereby annexed to the county of Sampson, to form and constitute a portion of the territory of said county: *Provided, however*, That this act shall not be construed to release the portion of New Hanover so annexed to Sampson county from its proportionate part of the present debt of New Hanover county: *Provided*, The territory thus taken from New Hanover and added to Sampson shall contribute to the payment of the now existing debt of New Hanover, in proportion to the taxable property of said territory, subject to the following deduction: that the commissioners of New Hanover and three commissioners on the part of the township, to wit: Dr. J. B. Seavey, E. G.

Boundary of plat.

Proviso.

Further Proviso.

Ward, Dr. C. S. Kerr, shall estimate the value of the public property of New Hanover county, which valuation shall be deducted from said debt, and the taxable property of said township shall be liable for its *pro rata* portion of residue of said debt of New Hanover, and the commissioners of New Hanover shall furnish to the sheriff of Sampson a transcript of the assessed value of the taxable property of said territory, and the annual *pro rata* portion of said debt to be collected from said territory and it shall be a part of the official duty of the sheriff of Sampson, to collect said tax and pay it over to the treasurer of New Hanover taking his receipt for the same, and shall receive the commissions for collecting said tax that he receives for collecting county taxes: *Provided*, That the commissioners of New Hanover and the commissioners of the territory are unable to agree upon the valuation of said public property, the aforesaid commissioners shall each choose an arbitrator, which arbitrators who, if unable to agree, shall choose an umpire who shall decide the value of said public property.

Value of public property.

Sheriff of Sampson may collect tax.

Proviso.

SEC. 2. This act shall be in force from and after its ratification.

When act to be in force.

Ratified the 8th day of February, A. D. 1872.

CHAPTER CXLV.

AN ACT TO DEFINE AND PUNISH THE CRIME OF EMBEZZLEMENT.

SECTION 1. *The General Assembly of North Carolina do enact*, If any officer, agent, clerk or servant of any corporation, or any clerk, agent or servant of any person or copartnership, (except apprentices and other persons under the age of sixteen years,) shall embezzle or fraudulently convert to his own use or shall take, make way with or secrete, with intent to embezzle or fraudulently convert to his own use any money, goods or other chattels, bank note, check or

Embezzlement of funds declared felony.

order for the payment of money issued by or drawn on any bank or other corporation, or any treasury warrant, treasury note, bond or obligation for the payment of money issued by the United States or by any state, or any other valuable security whatsoever belonging to any other person or corporation which shall have come into his possession or under his care by virtue of such office or employment, he shall be deemed guilty of felony, and upon conviction thereof, shall be punished as in cases of larceny.

Embezzlement
defined.

SEC. 2. In indictments under this act, except when the offence shall relate to a chattel, it shall be sufficient to allege the embezzlement to be of money without specifying any particular coin or valuable security; and such allegation, so far as regards the description of the property, shall be sustained if the offender shall be proved to have embezzled any amount although the particular species of coin or valuable security of which such amount was composed shall not be proved.

Ratified the 8th day of February, A. D. 1872.

CHAPTER CXLVI.

AN ACT RELATING TO THE FEES OF SUPERIOR COURT CLERKS.

Rates of charge.

SECTION 1. *The General Assembly of North Carolina do enact*, That the following shall be the fees of superior court clerks for the services named, to-wit: For taking the private examination of a married woman as to the execution of any deed offered for probate, with certificate, fifty cents; setting seal to any paper, so requiring, twenty-five cents; certificate, twenty-five cents; recognizance, twenty-five cents; summons, one dollar; for each copy, twenty-five cents; entering judgment, one dollar; execution, thirty-five cents; presentment, sixty cents; indictment, sixty cents; capias, one dollar; transcript to supreme court, two dollars; sub-

poena, fifteen cents for each person named in the subpoena; jury ticket, ten cents; witness ticket, ten cents; auditing and settling accounts, one half of one per cent. for all sums under one thousand dollars, and on all sums over one thousand dollars, one tenth of one per cent: *Provided*, That no fees thereon shall exceed fifteen dollars; letters of administration, one dollar; appointment of guardian, one dollar; binding of apprentices, one dollar; justification of bond, when required, fifty cents; probate of will, in common form, one dollar; recording will or other writing necessary to be recorded, ten cents for each copy sheet; that all clerks shall be required to post and keep posted in their office a fee bill for public inspection and reference under a penalty of fifty dollars for such neglect.

Proviso.

Fee bill to be posted in clerk's office.

Penalty.

SEC. 2. That all laws or parts of laws in conflict herewith are hereby repealed.

Repealing clause.

SEC. 3. This act shall be in force from and after its ratification.

When act to take effect.

Ratified the 8th day of February, A. D. 1872.

CHAPTER CXLVII.

AN ACT TO PROVIDE IN CERTAIN CASES AN ALLOWANCE FOR IMPROVEMENTS.

SECTION 1. *The General Assembly of North Carolina do enact as follows*, Any defendant against whom a judgment shall be rendered for land, may at any time before the execution of such judgment, present a petition to the court rendering the same, stating that he or those under whom he claims while holding the premises under a title believed by him or them to be good have made permanent improvements thereon, and praying that he may be allowed for the same over and above the value of the use and occupation of such land; and thereupon the court may, if satisfied

Petition granted.

Execution of judgment suspended.

Jury may assess damages.

of the probable truth of the allegation, suspend the execution of such judgment and impanel a jury to assess the damages of the plaintiff and the allowance to the defendant for such improvements.

Annual value of land for the time occupied.

SEC. 2. The jury in assessing such damages shall estimate against the defendant the clear annual value of the premises during the time he was in possession thereof (exclusive of the use by the tenant of the improvements thereon made by himself or those under whom he claims,) and also the damages for waste or other injury to the premises committed by the defendant.

Time of liability.

SEC. 3. The defendant shall not be liable for such annual value for any longer time than three years before the suit, or for damages for any such waste or other injury done before said three years, unless when he claims for improvements as aforesaid.

Valuation of improvements to be in favor of defendant.

SEC. 4. If the jury shall be satisfied that the defendant or those under whom he claims, made on the premises, at a time when there was reason to believe the title good under which he or they were holding the said premises, permanent and valuable improvements, they shall estimate in his favor the value of such improvements as were so made before notice in writing of the title under which the plaintiff claims, not exceeding the amount actually expended in making them and not exceeding the amount to which the value of the premises is actually increased thereby at the time of the assessment.

Defendant not liable beyond rents and improvements.

SEC. 5. If the sum estimated for the improvements exceed the damages estimated by the jury against the defendant as aforesaid, they shall then estimate against him for any time before the said three years, the rents and profits accrued against or damages for waste or other injury done by him or those under whom he claims, so far as may be necessary to balance his claim for improvements, but in such case he shall not be liable for the excess, if any, of such rents and profits or damages beyond the value of the improvements.

Jury shall find verdict for balance.

SEC. 6. After offsetting the damages assessed for the plaintiff, and the allowances to the defendant for the im-

provements, if any, the jury shall find a verdict for the balance for the plaintiff or defendant, as the case may be, and judgment shall be entered therefor according to the verdict.

SEC. 7. Any such balance due to the defendant shall constitute a lien upon the land recovered by the plaintiff until the same shall be paid.

Which shall constitute lien.

SEC. 8. If the plaintiff claim only estate for life in the land recovered and pay any sum allowed to the defendant for improvements, he or his personal representative, may recover at the determination of his estate from the remainder man or reversioner, the value of the said improvements as they then exist, not exceeding the amount as paid by him, and shall have a lien therefor on the premises in like manner as if they had been mortgaged for the payment thereof, and may keep possession of said premises until it be paid.

Defendant may recover for improvement.

SEC. 9. Nothing herein shall extend or apply to any suit brought by a mortgagee or his heirs or assigns against a mortgagor or his heirs or assigns for the recovery of the mortgaged premises.

Does not apply to mortgagor.

SEC. 10. When the defendant shall claim allowance for improvements the plaintiff may by entry on the record require that the value of his estate in the premises without the improvements shall also be ascertained.

Defendants claiming allowance.

SEC. 11. The value of the premises in such case shall be estimated as it would have been at the time of the enquiry, if no such improvements had been made on the premises by the tenant or any person under whom he claims, and shall be ascertained in the manner hereinbefore provided for estimating the value of improvements.

How value of premiums estimated.

SEC. 12. The plaintiff in such case, if judgment is rendered for him may, at any time during the same term, or before judgment is rendered on the assessment of the value of the improvements, in person or by his attorney in the cause, enter on the record his election to relinquish his estate in the premises to the defendant at the value as ascertained, and the defendant shall thenceforth hold all the estate that the plaintiff had therein at the commencement

Plaintiff may enter desire to relinquish.

of the suit: *Provided*, He pay therefor the said value with interest in the manner in which the court may order it to be paid.

Payments how made.

SEC. 13. The payments shall be made to the plaintiff, or into court for his use, and the land shall be bound therefor, and if the defendant fail to make the said payments within or at the times limited therefor respectively, the court may order the land to be sold and the proceeds applied to the payment of said value and interest, and the surplus, if any, to be paid to the defendant, but if the said net proceeds be insufficient to satisfy the said value and interest, the defendant shall not be bound for the deficiency.

When claimant is *feme covert*, minor or insane.

SEC. 14. If the party by or for whom the land is claimed in the suit be a *feme covert*, minor, or insane, such value shall be deemed to be real estate, and be disposed of as the court may consider proper for the benefit of the persons interested therein.

When defendant evicted by force or better title.

SEC. 15. If the defendant or his heirs or assigns shall, after the premises are so relinquished to him be evicted thereof by force of any better title than that of the original plaintiff, the person so evicted may recover from such plaintiff or his representatives, the amount so paid for the premises, as so much money had and received by such plaintiff in his life time for the use of such person, with lawful interest thereon from the time of such payment.

Ratified the 8th day of February, A. D. 1872.

CHAPTER CXLVIII.

AN ACT TO INCORPORATE THE BEECH SWAMP AND SCOTLAND NECK RAILROAD COMPANY.

SECTION 1. *The General Assembly of North Carolina do enact*, That for the purpose of constructing a railroad from some point on the line of the Wilmington and Weldon

Railroad, between Enfield and Halifax, to some point on the Roanoke river, between Hill Ferry and Pollock's Ferry, upon such line as the directors of said railroad shall determine, Robert D. McIlwaine, Archibald McIlwaine, Morton Riddle, J. Craig Riddle, W. M. Ransom, Richard Tillery, James H. Whitaker, Peter Smith and Walter Clark, and their associates, successors and assigns, are hereby constituted a body corporate under the name and style of the Beech Swamp and Scotland Neck Railroad Company, with a capital stock of two hundred thousand dollars, which shall have a corporate existence and as such exercise the powers herein granted in perpetuity as a body politic, and by that name may sue and be sued, plead and be impeaded in every court in the state of North Carolina, and may have a common seal, and shall be capable of purchasing, holding, leasing and conveying estate, real, personal and mixed and of acquiring the same by gift or devise for the purpose herein contemplated, and the said company shall have and enjoy all the rights and immunities which other corporate bodies may lawfully exercise, and may make all necessary by-laws and regulations for its government, not inconsistent with the constitution and laws of the state of North Carolina and of the United States.

Corporate body.

Corporate name.

Capital stock.

Rights and privileges.

SEC. 2. That the capital stock of said company may be created by subscription on the part of individuals, municipal or other corporations, in shares of the value of fifty dollars each, which may be made in land, timber, labor or money as may be stipulated.

Capital stock how created.

SEC. 3. That books of subscription may be opened by such persons at such times and at such places and under such rules and regulations as the persons above named or a majority of them may direct.

Books of subscription.

SEC. 4. That when the sum of ten thousand dollars shall have been subscribed to the capital stock of said company by solvent subscribers a general meeting of the stockholders shall be had after due notice, and such general meeting, a majority of the stockholders being present either in person

Meeting of stockholders.

Election of President and Directors.

or by proxy, shall elect a board of directors to consist of such number, not less than five, as the stockholders shall determine, and said directors shall elect one of their number president, and such other officers as the by-laws of said company shall prescribe, and may do and perform all other acts necessary to the complete organization of said company and to carry into effect the objects of this charter.

Valuation of land to be ascertained.

SEC. 5. That whenever land shall be required for the construction of this road, or for warehouses, water stations, turnouts, workshops, depositories or other building purposes, and for any cause the same cannot be purchased from the owner or owners, the same may be taken by the directors at a valuation to be ascertained as follows: The sheriff of the county in which the land may be, shall at the request of the president of said road, summon five disinterested freeholders of his county who shall ascertain the value under oath, to be administered by the sheriff, they first deducting the enhanced value of the land caused by said railroad from such valuation, and adding any particular loss or damage, and upon the payment or tender by the president of the amount so assessed the title of the property so seized and appraised shall thereby vest in the said corporation: *Provided*, That either party may appeal to the superior court of the county in which the land lies upon the question of the amount assessed: *And provided further*, That not more than one hundred feet from the centre of the road shall be liable to be condemned.

Manner of valuation.

Proviso.

Further proviso.

Lease of franchise.

SEC. 6. That the said company may have power to lease its franchises or any parts thereof for such time and upon such terms as they may think advantageous to the interest of the company.

Bonds secured by mortgage.

SEC. 7. That the president and directors shall have power at any time to borrow money upon the bonds of the company and to secure the same by mortgage or other legal assurance.

Exclusive right of way.

SEC. 8. That the said company shall have the exclusive right to convey and transport passengers and freight over and along the said road, and at such rates as said company shall prescribe.

SEC. 9. That this act shall be in force from and after its ratification, and the said company shall have the exclusive right for a term of thirty years from its full organization to construct and use the aforesaid railroad. Term of time.

Ratified the 8th day of February, A. D. 1872.

When act to be in force.

CHAPTER CXLIX.

AN ACT AUTHORIZING THE COMMISSIONERS OF MONTGOMERY COUNTY TO LEVY A SPECIAL TAX AND TO ISSUE BONDS.

SECTION 1. *The General Assembly of North Carolina do enact*, That the county commissioners of the county of Montgomery are hereby authorized to levy and collect a special tax of four thousand dollars upon the taxable property and polls of said county, for the payment of the indebtedness of said county, and in the assessment and levy of the same, the equation provided in section one of article five of the Constitution between the property and the polls shall be observed. Special tax levied for indebtedness of county.

SEC. 2. That in order to liquidate the balance of the liabilities of said county of Montgomery, the commissioners of said county are hereby authorized to issue coupon bonds not exceeding in amount the sum of five thousand dollars in denominations not less than one hundred dollars: *Provided, however*, That the said county commissioners shall fund no claims against the county about which doubts may be entertained in relation to their validity on account of their connection with the rebellion; all such claims to be audited and passed upon by a committee of three or five competent citizens appointed by the county commissioners for the purpose. Coupon bonds issued.

SEC. 3. That said bonds shall run for ten years, with interest at the rate of six per centum per annum, payable semi-annually; and the coupons on said bonds shall be Limit and per centage of bonds.

receivable in payment of the county taxes for any fiscal year in which they may fall due.

Bonds to be signed.

SEC. 4. That said bonds and coupons thereof shall be signed by the chairman of the board of commissioners, and countersigned by the clerk of the board, which latter officer shall keep a book suitable for the purpose, in which he shall keep an accurate account of the number of the bonds issued, their amount and to whom issued, the amount of bonds and coupons received and cancelled, so that upon an inspection of his books the true state of the county debt may be seen, for which services he may receive a reasonable compensation, to be fixed by the board.

Account book kept by clerk.

Redemption of bonds.

SEC. 5. That said county commissioners shall have the privilege to redeem said bonds at any time after the expiration of one year, and it shall be the duty of the county treasurer each year to purchase one tenth of said bonds then outstanding, or by order of said county commissioners set apart as a sinking fund one-tenth of the amount sufficient to redeem said bonds when they shall fall due.

Sinking fund created.

Security required for treasurer's bond.

SEC. 6. That it shall be lawful for said county commissioners if in their discretion the official bond of the county treasurer shall be insufficient to protect the county in the discharge of his duties hereby enjoined, to require him to give further and sufficient security.

Tax levied on real estate and polls.

SEC. 7. The said commissioners of Montgomery county are hereby authorized to levy a tax of one-tenth of one per cent. on the real and personal property of said county and thirty cents on each poll for the special purpose of redeeming said bonds.

Question of taxation to be submitted to voters.

SEC. 8. That this act shall not go into force or take effect until the question of the tax provided for in section one of this act, and the question of funding the balance of the debt of said county as provided for in section two of this act, shall have been submitted to the qualified voters of said county for their ratification or rejection and a majority of said voters shall have voted in favor of such taxation and funding.

Ratified the 8th day of February, A. D. 1872.

CHAPTER CL.

AN ACT TO AID IN THE COMPLETION OF THE WESTERN DIVISION
OF THE WESTERN NORTH CAROLINA RAILROAD.

SECTION 1. *The General Assembly of North Carolina do enact*, That an act entitled An act to repeal an act to amend the charter of the Western North Carolina Railroad Company, ratified the nineteenth day of August, one thousand eight hundred and sixty-eight, and for other purposes, ratified the fifth day of April, one thousand eight hundred and seventy-one, be and the same is hereby repealed, and that the said act entitled An act to amend the charter of the Western North Carolina Railroad Company, ratified the nineteenth day of August, one thousand eight hundred and sixty-eight, be and the same is hereby re-enacted with all the rights, privileges, powers and immunities pertaining or granted by the said act, except as modified under the provisions of this act: *Provided*, Sections seven and eight of said act, ratified August nineteenth, one thousand eight hundred and sixty-eight, and the following words in section five of said act, to-wit: "And the public treasurer is hereby authorized and required to make subscriptions from time to time for two-thirds of the stock, and make payment as heretofore provided by law, are not and shall not be re-enacted."

Repealing clause.

Re-enactment.

Proviso.

SEC. 2. That for the purpose of enabling the Western Division of the Western North Carolina Company to prosecute the work of construction on said Western Division, the board of directors of the Western Division of said road shall faithfully apply all moneys which have come or may come to their hands by virtue of or in consequence of any appropriation heretofore made by the general assembly of North Carolina in aid of said Western Division of said road, or which they may receive by or through or in consequence of an act ratified the twenty-fourth day of March, one thousand eight hundred and seventy, entitled An act to provide

Appropriations of money made by the Legislature are to be used for the completion of the Western Division of W. N. C. Railroad.

for the completion of the Western Division of the Western North Carolina Railroad, or which have been collected or may hereafter be collected or obtained by or through the commissioners created under the provisions of the last named act on account of any suit or suits, compromise or compromises from, with or against any party or parties whatsoever by the commissioners aforesaid or any other person whatsoever, in carrying on the work of construction on said Western Division of said road as follows: that is to say, the board of directors and the commissioners aforesaid, so far as the latter have power, shall cause the grading of said road to be put under contract at once in such lots or quantities as they may deem best in the interest of said road, and shall extend the same from time to time to the utmost extent the moneys on hand or in anticipation will justify, beginning at the French Broad river and following the main trunk line in the direction of Murphy, North Carolina, after first paying all that may be due to contractors or others who have done work on any portion of either branch of said Western Division of Western North Carolina Railroad.

Contract for grading.

Route of Railroad

Public statement of the amount of work done and moneys received.

SEC. 3. It shall be the duty of the president of said Western Division and the commissioners aforesaid, on the first day of January, May and September in each and every year, to publish in one or more newspapers printed in the town of Asheville, North Carolina, a full and fair statement in detail of the amount of work let to contract, the amount of moneys received, the amount of moneys paid out, of whom received and to whom paid.

Meeting of stockholders publicly notified.

SEC. 4. That the stockholders of the Western Division of the Western North Carolina Railroad Company may meet in the town of Waynesville, in the county of Haywood, after thirty days notice, which notice any three stockholders of said company may give by publishing the same in both of the newspapers published in the town of Asheville, and if a quorum of such stockholders or a majority of stock and the state's proxy representing the stock of the state in said company shall be present at such meeting, it shall be con-

petent for the stockholders of the said company for causes satisfactory to them to remove the present board of directors, and any of the officers or agents of said company, and elect and appoint others in their stead. W. L. Love, R. V. Welch, T. D. Bryson, E. D. Davis, M. P. Penland, R. D. McCombs, Stephen Whitaker and C. D. Smith shall be directors of said company representing and in behalf of the state as now provided by law until the next annual meeting of the stockholders of said company, and at the special meeting herein provided for and until the next annual meeting Walter Brown shall be the proxy for the state. Less than a quorum as aforesaid may adjourn from time to time: *Provided*, That in the said meeting of the stockholders, or at any subsequent meeting, it shall not be competent for any person claiming to own stock in said company to represent the same either in person or by proxy unless it shall be made to appear that five per centum of said stock has been actually paid into the treasury of said company.

SEC. 5. That hereafter the speaker of the house of representatives shall by paper writing to that effect appoint the directors and proxy to represent the stock and interest of the state in said company.

SEC. 6. That if the stockholders of said company shall remove the present board of directors or any of their officers or agents as provided by this act, and any such directors, officer or agent so removed shall fail or refuse forthwith to surrender and duly account for all moneys, bonds, papers, property and effects of every kind of said company in the possession or control of such director, officer or agent, such director, officer or agent so failing and refusing shall be deemed guilty of a misdemeanor and on conviction in the superior court of the county of Haywood shall be imprisoned not less than one month nor more than six months and fined not less than one hundred dollars nor more than five hundred dollars.

SEC. 7. That if any director or officer or agent of said company shall pay, use or apply or dispose of in any way,

Board of directors.

Proxy for State.

Proviso.

Appointments made by Speaker of the House of Representatives.

Removal of directors, agents, &c.

Failure to render accounts of money, bonds, &c., a misdemeanor.

Penalty.

When guilty of embezzlement,

directly or indirectly, any of the money, bonds or property or effects of said company in the institution or prosecution of any suit or other legal proceedings to delay, affect or defeat the provisions of this act, such director, officer or agent so offending shall be deemed guilty of embezzlement and on conviction in the superior court of Haywood county shall be imprisoned not less than six months nor more than twelve months and fined not less than one hundred dollars nor more than five hundred dollars.

Penalty.

President and Treasurer to give bond and security

SEC. 8. That the president and treasurer elected by said board of directors shall give bond and sufficient security, to be adjudged by the board of directors, two-thirds concurring.

Commission required to report to Board of Directors.

SEC. 9. That the board of directors of said company are authorized and empowered at any time to call upon and require the commission appointed by an "Act to provide for the completion of the Western Division of the Western North Carolina Railroad," ratified the twenty-sixth day of March, *anno domini* one thousand eight hundred and seventy, to make report to said board of the acts and doings of said commission, and the said commission shall at all times and in all things be subject to the control and direction of said board of directors, and may be removed at the pleasure of the said board; and if the said commission or either of them shall fail or refuse to obey the orders and directions of said board of directors, the person so offending shall be deemed guilty of a misdemeanor, and on conviction in the superior court of Haywood county, shall be fined not less than one thousand dollars and imprisoned at the discretion of the court.

Disobedience of orders a misdemeanor.

Penalty.

Company empowered to lease or sell Railroad.

SEC. 10. The said company, as organized under this act, is hereby authorized and empowered to lease or sell or otherwise dispose of the whole or any part of said road to any person or corporation upon such terms as may be agreed upon: *Provided*, In any lease or sale of said road a time shall be fixed within which the same shall be completed, and in the event of a failure on the part of the person or corporation taking the lease, or purchasing said

Proviso.

road, or any part thereof, to complete the same within the time so fixed and agreed upon, it shall be in the discretion of the company to extend the time for its completion or annul said contract.

SEC. 11. That this act shall be in force from and after its ratification. When act to be in force.

Ratified the 5th day of February, A. D. 1872.

CHAPTER CLI.

AN ACT TO INCORPORATE THE NEW RIVER CANAL COMPANY.

SECTION 1. *The General Assembly of North Carolina do enact,* That for the purpose of connecting the waters of the Northeast river with the waters of New river by a canal, in the state of North Carolina, Wilton L. Young, William P. Pope, their present and future associates and their successors, be and they are hereby incorporated a body corporate under the name and style of the "New River Canal Company," and as such corporation they shall have perpetual succession, may acquire, hold and possess real and personal property, sue and be sued, have a common seal which they may change or alter at pleasure, have power to make by-laws for the regulation and government of the company, and to do all other acts and things which a body corporate may do not inconsistent with or repugnant to the constitution and the laws of the state of North Carolina or of the United States. Corporate body.

SEC. 2. That the capital stock of the said company shall be one hundred thousand dollars, which shall be raised in such a manner as may hereafter be provided in the by-laws; and the said stock shall be divided into shares of such size and transferred and signed in such manner as may be therein prescribed. Corporate name.
Perpetual succession.
Powers and privileges granted.
Capital stock

Board of directors

SEC. 3. That the business of the said company shall be conducted and managed by a board of directors to be chosen in such manner and to consist of such number and to hold their offices for such period of time as may be prescribed in the by-laws.

Provisional board of directors.

SEC. 4. That the said Wiltan L. Young, William P. Pope shall constitute a provisional board of directors for the purpose of organizing said company, and as such they shall have power to make by-laws, enter into contracts and do all other acts and things which the regular directors may do in the management and affairs of said company, and shall continue in office until the regular directors are elected and qualified in the manner prescribed in the by-laws.

Business of officers to be determined by Ly-laws.

SEC. 5. That the number of officers of said company, their terms of office, the duties to be performed by them shall be fixed and prescribed in the by-laws.

Construction of canal.

SEC. 6. That said company shall have power to construct a canal in the state of North Carolina to connect the waters of the Northeast river with the waters of the North river, which canal shall be suitable for navigation by vessels, steamboats, barges and other water crafts, and may be used for transporting wood, timber, or other commodities by means of rafts or otherwise, under such regulations as may be prescribed by said company; said canal shall be of such width and depth and general dimensions as the said company may think proper for a canal intended for the above purposes; the construction of said canal shall be commenced as soon after the organization of said company as may be practicable and shall be completed as soon as the resources of the company will justify. The rates of toll and the charges for the use of said canal shall be fixed by said company, but such tolls and charges shall be uniform upon vessels or property of the same class or kind, and no discrimination shall ever be made in favor of or against any person or class in the use of said canal.

Location.

Navigation.

Transportation by rafts.

When commenced.

Rates of toll.

Terminus.

SEC. 7. That the terminus of said canal upon the Northeast river may be at such point or at such place upon said river as the said company may select, and upon leaving the

Northeast river the said company may select such route as they deem most easy of construction, and its terminus upon the New river shall be at any point the said company may select or that may be deemed advisable by said company, and such canal shall be constructed through such parts of the county between said rivers as in the opinion of said company will render it most available for the purposes contemplated by this act, and in construction of said canal said company may cross over, pass through or along any of the creeks, water courses or bodies of water that may be passed on the route of said canal between the Northeast river and the New river, and make use of the waters of said creeks, water courses or bodies of water in any way that may tend to promote their interest in the construction or use of said canal; and to that end may construct locks and dams above or below said canal upon such creeks, water courses or bodies of water, so as to turn the waters of the same into said canal or to use the same in receiving or discharging water from said canal: *Provided*, That no use of said creeks, water courses or bodies of water shall impair or prevent navigability of the same, and that the said company may construct upon and along said canal as many locks as they may deem serviceable for the use of said canal.

Liberty granted to using other streams and water courses.

Privilege of making locks and dams for use of canal.

Proviso.

SEC. 8. That the said company shall have the right to enter upon any and all lands, and to pass through and over all streams and bodies of water between the said termini of said proposed canal for the purpose of making a survey and location of said canal, and that in locating the same they may vary the route heretofore described in section the seventh of this act as to this company may seem most advantageous, the principal object of connecting said waters by a canal for the convenience of commerce being preserved.

Right to pass through lands for surveying purposes.

Company may vary the route.

SEC. 9. That in case the said company shall be unable to agree with any of the owners of the land over which the said canal shall pass, according to a survey and location thereof first to be made by said company, they shall have the right to condemn so much of the said land as may be required for the bed of said canal, and one hundred yards

Condemnation of land.

on each side thereof, and the mode of condemnation shall be as follows: The said company shall give notice to the owner of the land which they desire to condemn, of their intention to apply to any magistrate in the county in which the land may be situated, for a jury of view and condemnation. Ten days after the time of said notice, the said company may make their application to any of the said magistrates for a jury of view and condemnation, and the magistrate applied to thereupon direct the sheriff of the county to empanel a jury of twelve men on the premises to be condemned, giving notice three days in advance to both parties litigant of the time and place of empanneling said jury; when the jury shall be empanneled, it shall be the duty of the said sheriff to administer to them an oath, truly to try the issue submitted to them, and to pass upon the same as the trial of such issue, both parties being permitted to produce and examine witnesses, and to be heard by counsel, if they should require. The jury, after having heard the case, shall make up a sealed verdict, which the sheriff shall return to the magistrate ordering the proceedings, and the said magistrate shall enter a judgment upon said verdict, which shall be as binding upon both parties as a judgment at law.

Form of condemnation.

Sheriff to empanel a jury.

Oath administered.

Counsel permitted.

Verdict by jury to be binding.

Land condemned at each termini.

Manner of raising funds.

Limitation.

Amount of bonds

SEC. 10. That the said company is hereby authorized to enter upon and condemn for the purpose of depots and landing places at each of the termini of said canal a quantity of land not exceeding twenty acres at each termini, the condemnation to be had and made as provided in the ninth section of this act.

SEC. 11. That the said company for the purpose of obtaining money to construct said canal, may issue bonds payable at the end of not more than thirty years, to the amount of one hundred thousand dollars, to bear interest at the rate of not more than eight per cent. per annum, with coupons of interest attached, which bonds and coupons may be made payable at any place said company may select, and said bonds may be of such amount as the company may deem advisable, and to secure the payment of said bonds

and coupons of interest, said company may execute a mortgage upon all its property of every kind situated in this state, and upon all its rights and franchises conferred upon it by this state, or otherwise acquired.

Mortgage executed for security of bonds.

SEC. 12. That this act shall take effect from the date of its ratification.

When act to take effect.

Ratified the 8th day of February, A. D. 1872.

CHAPTER CLII.

AN ACT TO PREVENT THE DESTRUCTION OF FISH IN THE WATERS OF BLACK RIVER AND SIX RUNS IN THE COUNTIES OF NEW HANOVER, SAMPSON, CUMBERLAND AND HARNETT.

SECTION 1. *The General Assembly of North Carolina do enact*, That it shall be unlawful for any person to catch or destroy with seines, nets, firearms, bows and arrows or by muddying or stirring the waters, or by striking any fish of any kind in the waters of Black or South rivers in the counties of New Hanover, Sampson, Cumberland and Harnett and of the waters of Six Runs in the counties of New Hanover and Sampson, between the fifteenth day of May and the fifteenth day of August in each and every year.

Prohibition of fish.

SEC. 2. That any person violating the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof before any justice of the peace in the county where the offence was committed, shall be fined not to exceed five dollars, which fine shall be paid to the treasurer of the county where the offence was committed for the benefit of the school fund.

Violation of act a misdemeanor.

Penalty.

SEC. 3. This act shall be in force from and after its ratification.

When act to take effect.

Ratified the 8th of February, A. D. 1872.

CHAPTER CLIII.

AN ACT TO LEGALIZE THE ACTS OF CERTAIN COUNTY OFFICERS
IN MACON AND JACKSON COUNTIES PENDING THE ORGANIZA-
TION OF SWAIN COUNTY.

Validity of acts.

SECTION 1. *The General Assembly of North Carolina do enact*, That all acts of any of the regularly constituted officers of Macon and Jackson heretofore done in pursuance of law in that portion of their respective counties now included in the county of Swain, prior to and pending the election and qualification of the county officers of said county of Swain, be and the same are hereby legalized and made valid.

When act to be in force.

SEC. 2. This act shall be in force from and after its ratification.

Ratified the 8th day of February, A. D. 1872.

CHAPTER OLIV.

AN ACT TO CHANGE THE COUNTY LINE BETWEEN CHEROKEE
AND SWAIN, NEAR THE RESIDENCE OF JEFFERSON GEORGE.

Boundary of county.

SECTION 1. *The General Assembly of North Carolina do enact*, That the county line between Cherokee and Swain, near the residence of Jefferson George, be changed as follows: Commencing on the top of the ridge above the meadows where the present line now runs west, and run due north to the top of the divide between the waters of the Handpole branch and Ledbetter's creek, thence north to the top of the ridge to the county line.

When act to be in force.

SEC. 2. This act shall be in force from and after its ratification.

Ratified the 8th day of February, A. D. 1872.

CHAPTER CLV.

AN ACT TO AUTHORIZE THE COMMISSIONERS FOR THE COUNTY OF FRANKLIN TO CONVEY TO THE TRUSTEES OF TRINITY CHURCH CERTAIN LAND.

SECTION 1. *The General Assembly of North Carolina do enact*, That the board of commissioners for the county of Franklin be and they are hereby authorized to convey to J. B. Littlejohn, Alexander Wilson, Morris Merritt, Royal Edwards and Jacob Debnam, trustees of Trinity church, in the county of Franklin, two acres of land, embracing the land on which the said church is located in the angle of the Warren and Nashville roads, being a part of the land belonging to Franklin county, known as the "Poor House Tract," to be held by the said trustees for the use and benefit of the Methodist Episcopal Church South.

Conveyance of church property to trustees.

SEC. 2. This act shall be in force from and after its ratification.

When act to be in force.

Ratified the 8th day of February, A. D. 1872.

CHAPTER CLVI.

AN ACT TO AMEND SECTION SEVEN (7) OF CHAPTER ONE HUNDRED AND TWENTY-NINE (129) LAWS OF ONE THOUSAND EIGHT HUNDRED AND SIXTY-NINE AND ONE THOUSAND EIGHT HUNDRED AND SEVENTY.

SECTION 1. *The General Assembly of North Carolina do enact*, That section seven of chapter one hundred and twenty-nine, of the laws of one thousand eight hundred and sixty-nine and one thousand eight hundred and seventy, be amended by striking out in the first line thereof the word "fine:" *Provided*, That the effect of this act shall not be

Amendment.

Proviso.

to disturb, injure or destroy any rights or privileges accruing or which have accrued to any association heretofore organized under the said chapter one hundred and twenty-nine, or to persons or corporations with whom such association have contracted or dealt.

When act to be in force.

SEC. 2. This act shall be in force from and after its ratification.

Ratified the 8th day of February, A. D. 1872.

CHAPTER CLVII.

AN ACT TO INCORPORATE AND CONSTRUCT A PUBLIC ROAD FROM JEFFERSON, IN ASHE COUNTY, TO THE MOUTH OF PHENIX CREEK.

Commissioners of road.

SECTION 1. *The General Assembly of North Carolina do enact*, That B. R. Brem, L. C. Gentry and W. B. Thomas, be and are hereby appointed commissioners to view and lay out and improve the public road from Jefferson, in Ashe county, to the mouth of Phenix creek.

Dimensions of road.

SEC. 2. That the said road shall be made twenty feet wide except where there shall be side cuttings, and in such places it shall be sixteen feet wide, and in no part of the road shall it rise on ascending any hill or mountain more than one foot in ten, and to be well made as herein directed.

Oath administered.

SEC. 3. That said commissioners shall take an oath before a justice of the peace for Ashe county, to faithfully discharge their duties for the best interest of their county.

Damages assessed

SEC. 4. That if the owners of any lands through which said road shall pass shall consider him, her or themselves injured thereby, it shall be competent for the commissioners named in section first of this act to assess such damages as they may deem proper and just, which damages shall be approved by the county commissioners, and paid as other county claims.

SEC. 5. That the county commissioners of Ashe county shall have power to call out all the hands of the county liable to work on public roads under existing laws who reside within two miles by compass line of said road at such times and for such length of time as will not materially conflict with the farming interest of the county, to construct said road.

Laborers called out for construction of road.

SEC. 6. That when the said road provided for in this act has been constructed as herein provided, it shall be the duty of the township board of trustees through whose township said road runs, to receive the same and report to the county commissioners that said road has been constructed according to law.

Duty of trustees.

SEC. 7. This act shall be in force from and after its ratification.

When act to be in force.

Ratified the 8th day of February, A. D. 1872.

CHAPTER CLVIII.

AN ACT TO PROMOTE THE MINING INTERESTS OF THE STATE.

SECTION 1. *The General Assembly of North Carolina do enact*, That any person or persons or body politic or corporate engaged or about to engage in mining, who may find it necessary for the furtherance of their operations to convey water either to or from their mine or mines over the lands of any other person or persons, may make application in writing to any justice of the peace of the county in which the lands to be affected or the greater part thereof are situated, for the right so to convey the said water.

Conveyance of water for mining purposes.

Application made to justices of the peace.

SEC. 2. That before making said application the applicant shall give ten days' notice to the owners of said lands of the time and place of said application and the magistrate before whom the same will be made; said notice shall be in writing,

Time of notice.

Copy of notice delivered to owner of land.

and shall be served by delivering a copy thereof to the owner of said lands, or by leaving said copy at his usual place of residence, if he be a resident of this state, or if he be a non-resident by posting said notice in some conspicuous place upon said land, and also at the court house door of the county.

Character of application.

SEC. 3. That said application shall specify the lands to be affected thereby, the name or names of the owner or owners of said lands if they be known to the applicant, the name of the occupant or occupants of such lands, if any there be, and the character of the ditch or drain intended to be made.

Jurors appointed to assess damages

SEC. 4. That upon due proof being made to the justice of the peace that the notice mentioned in section two of this act has been given, he shall appoint three disinterested persons qualified to act as jurors, and not connected either by blood or marriage with such applicant, or the owner or occupant of such lands, appraisers to assess the damage, if any, that will accrue to said lands by the contemplated work, and shall issue a notice to them to meet upon the premises at a day specified, not to exceed ten days from the date of said notice.

Oath administered.

SEC. 5. That the appraisers having met, shall take an oath before some officer qualified to administer oaths, to faithfully perform their duty and to do impartial justice in the case, and shall then examine all the lands in any way to be affected by the said work, and assess the damage thereto, and make report thereof under their hands and seals to the justice from whom the notice issued.

Appeal can be made to Superior Court.

SEC. 6. That either party dissatisfied with the assessment of the appraisers may, within ten days thereafter, appeal to the superior court, having first given bond with approved security for the payment of the costs of the appeal.

Right of applicant.

SEC. 7. That after the return of the assessment the applicant shall have full right and power to enter upon such lands and make such ditches, drains or other necessary work: *Provided*, He has first paid or tendered the damages assessed as above to the owner of such lands or his known and recognized agent, if he be a resident of this state, or

Proviso.

have such agent in this state. If the owner be a non-resident and have no known agent in this state, the amount so assessed shall be paid by the applicant into the office of the clerk of the superior court of the county for the use of such owner.

SEC. 8. That the applicant or any other person interested may have the said assessment registered upon the certificate of the magistrate, and shall pay the register a fee of twenty-five cents therefor. Registration.

SEC. 9. That each appraiser shall be entitled to a fee of one dollar for each day actually employed in making said assessment, to be paid by the applicant. Compensation.

SEC. 10. That the magistrate shall receive a fee of one dollar and no more for the issuing of notices and other services required of him by this act, to be paid by the applicant. Fee of magistrate.

SEC. 11. That the sheriff or other officer serving the notices hereinbefore mentioned, shall receive the same fees as are allowed for such services in cases of partition of land, to be paid by the applicant. Fee of sheriff.

SEC. 12. That any person or persons who shall obstruct any drain or ditch constructed under the provisions of this act shall be deemed guilty of a misdemeanor, and on conviction thereof be punished by fine or imprisonment, or both at the discretion of the court. Obstruction of drains a misdemeanor.

SEC. 13. That this act shall be in force from and after its ratification. Penalty.

Ratified the 5th day of February, A. D. 1872. When act to take force.

CHAPTER CLIX.

AN ACT TO CHANGE THE TIME OF THE ANNUAL MEETING OF THE BOARD OF DIRECTORS OF THE INSANE ASYLUM.

SECTION 1. *The General Assembly of North Carolina do enact,* That the day of the annual meeting of the board of Change of annual meeting.

directors of the insane asylum shall hereafter be the first Wednesday of November in each and every year.

Repealing clause. SEC. 2. That all laws or parts of laws in conflict with this act are hereby repealed.

Ratified the 8th day of February, A. D. 1872.

CHAPTER CLX.

AN ACT SUPPLEMENTARY TO AN ACT ENTITLED AN ACT TO RAISE REVENUE, RATIFIED THE TWENTY-FIFTH DAY OF JANUARY, ONE THOUSAND EIGHT HUNDRED AND SEVENTY-TWO.

Preamble. WHEREAS, The general assembly at its present session, for good cause, hath superceded the work on the main buildings of the state penitentiary, and therefore the tax heretofore levied for said purpose is more than will be needed, therefore,

Amendment. SECTION 1. *The General Assembly of North Carolina do enact*, That section two of the above recited "Act to raise revenue," ratified as aforesaid on the twenty-fifth day of January, one thousand eight hundred and seventy-two, be

Special tax levied. amended so as to read as follows: A special tax of six and two-third cents on the one hundred dollars shall be levied and collected on all the taxable property of the state to be applied to the erection of the penitentiary and support of convicts.

Amendment. SEC. 2. That section two of said act be amended by striking out "one dollar and five cents," and inserting in lieu thereof "ninety-five cents."

When act to take effect. SEC. 3. That this act shall be in force from its ratification. Ratified the 8th day of February, A. D. 1872.

CHAPTER CLXI.

AN ACT TO TRANSFER CERTAIN CASES LEFT UNDISPOSED OF BY
THE LATE COUNTY COURTS.

SECTION 1. *The General Assembly of North Carolina do enact*, That all cases for the sale of real estate of assets heretofore in the county courts, in which only final orders for collection and application or distribution of purchase money and making titles were not made before the adoption of the present constitution, may at the instance of any person interested, be transferred as other cases to the superior court of the county where such proceeding was pending, and that such court shall have full authority to make all necessary orders to complete the same: *Provided*, This shall not apply to cases litigated at time of passage of this act.

Cases for sale of real estate, &c, not made before the present constitution may be transferred to Superior Court

Proviso.

Ratified the 8th day of February, A. D. 1872.

CHAPTER CLXII.

AN ACT AUTHORIZING THE CONSTRUCTION OF A TOLL BRIDGE
ACROSS THE CAPE FEAR RIVER AT LILLINGTON, HARNETT
COUNTY.

SECTION 1. *The General Assembly of North Carolina do enact*, That W. E. Murchison, J. A. Cameron, J. R. Grady, NeillMcKay, Daniel H. McLean, A. J. Kenitt, J. B. Honrine, W. F. Marsh, J. T. Rogers, R. Barnes, B. F. Shaw, C. S. Barbee, J. G. Brown, J. O. Johnson, H. H. Vestal, N. S. Stewart, Jas. S. Harrington, Jos. M. Turner, John A. Spears, and such other persons as they may associate with them and their successors, be and they are hereby constituted a body politic, with corporate privileges under the name and style of the "Lillington Bridge Company," and

Corporate body.

Corporate name.

in that name to have succession, sue and be sued, plead and be impleaded, and make such rules and regulations as they may deem necessary for the construction of and keeping up a public bridge across the Cape Fear river at Lillington.

Rate of toll to be established by commissioners.

SEC. 2. That the amount of tolls to be charged and received by the said Lillington Bridge Company shall be determined by the board of county commissioners of Harnett county, whose duty it shall be to establish the rate of toll to be charged for crossing said bridge, and cause the same to be entered on record.

Penalty.

SEC. 3. That if any person or persons after the completion of said bridge shall pass over the same and refuse to pay the toll fixed by law, that every such person or persons shall forfeit and pay the sum of five dollars, to be recovered by the said company by warrant before a justice of the peace.

Indictment.

SEC. 4. That in case of the failure on the part of said company to keep the said bridge in good repair so that the public may cross in safety, the said owners shall be subject to indictment in the superior court of Harnett county, and be fined at the discretion of the court.

Tolls.

SEC. 5. That after the completion of said bridge it shall not be lawful for any public ferry to charge tolls within four miles of said bridge.

Limitation.

SEC. 6. That the grant shall continue for the space of thirty years.

When act to be in force.

SEC. 7. This act shall be in force from and after its ratification.

Ratified the 8th day of February, A. D. 1872.

CHAPTER CLXIII.

AN ACT TO LAY OFF, ALTER AND ESTABLISH A PUBLIC ROAD FROM THE TOWN OF STATESVILLE, IN IREDELL COUNTY, TO THE TOWN OF WILKESBORO', IN WILKES COUNTY.

SECTION 1. *The General Assembly of North Carolina do enact*, That Col. S. A. Sharpe, J. H. Stevenson and J. W. Williams, of the county of Iredell; Robert Steel, Sr., Noah Deal and Dr. James E. King, of Alexander county; Richard L. Hicks, Harrall Hays and J. G. Hall, of Wilkes county, be and they are hereby appointed commissioners, and they or a majority of them shall have power to survey and locate and establish a public road from the town of Statesville, in Iredell county, the nearest and most direct practicable route to the town of Wilkesboro', in Wilkes county; and they shall locate and designate said road by stakes and marks, and they shall have power to assess to the owners of any lands over which said road may be established such damages as they may sustain thereby; and they shall make a plat of the route of said road and a particular and accurate description thereof, and an accurate statement of the damages assessed to each landholder, all of which shall be in writing, signed and sealed and reported to the county commissioners of the county in which the assessments are made, and when confirmed by said county commissioners, said assessments shall be claims against the county in which the land lies, to be paid as other county claims now are.

Commissioners.

Location.

Assessment for damages.

When assessments become claims.

SEC. 2. That the county commissioners of each county through which said road runs shall appoint the overseers to open and make said road and to allot to each overseer the particular part of the road each overseer is to make, stating at what point or points said overseer or overseers are to commence, and at what point or points said overseer or overseers are to stop, also giving the said all the hands which are now by law liable to work on public roads who reside within three miles of said road, a compass line.

Overseers appointed.

- Overseers gov-
erned by laws. SEC. 2. That the said overseers of said road when appointed as set forth in the second section of this act, shall be liable to and governed by all existing laws of the state governing overseers over public roads: *Provided, however,* That any overseers so appointed refusing to receive his appointment and failing to discharge his duty as such, shall be guilty of a misdemeanor, and on conviction be fined or imprisoned, or both, at the discretion of the court.
- Proviso.
- Penalty.
- Apportionment
of hands. SEC. 4. That the county commissioners of each county through which said road runs, shall apportion the hands to open said road among the several overseers in the counties in which they reside, and said hands, when apportioned among said overseers, shall be liable to all the laws of the state now in force on the subject of opening and keeping up the public roads of the state.
- Compensation. SEC. 5. That the commissioners appointed in the first section of this act to lay off and locate said road, shall each be allowed one dollar per day for the time they may be actually engaged in surveying and locating said road, to be advanced by the county commissioners of their respective counties, and to be paid as other county claims now are.
- Gauge of road. SEC. 6. That said commissioners shall locate said road so that no part thereof shall have an ascent of more than one foot vertical to ten feet horizontal, and said road shall be made twenty feet wide, except where there shall be side cuttings, and in such places it shall be *sixteen* feet wide; and said commissioners shall take an oath before some justice of the peace to perform the duties herein required of them faithfully and impartially, and to the best interest of their respective counties.
- Oath adminis-
tered.
- Power of over-
seer. SEC. 7. That the overseers appointed in section two of this act shall have power to call out all the hands allotted them to open said road at such times and for such length of time as will not materially conflict with the farming interest of said hands: *Provided,* That no person shall be required to work on said road more than thirty days in any one year.
- Proviso.
- Limitation.
- Completion of
road reported. SEC. 8. That when the said road provided for in this act has been constructed as hereinafter provided for, it shall be

the duty of the township board of trustees through whose township said road runs, to receive the same and report to the county commissioners that said road has been constructed according to law.

SEC. 9. This act shall be in force from and after its ratification.

When act to be in force.

Ratified the 8th day of February, A. D. 1872.

CHAPTER CLXIV.

AN ACT TO AMEND AN ACT ENTITLED AN ACT TO AUTHORIZE ALBEMARLE SWAMP LAND COMPANY TO CONSTRUCT A RAILROAD FROM PANTEGO TO INDIAN RIVER IN BEAUFORT COUNTY.

SECTION 1. *The General Assembly of North Carolina do enact,* That section one of chapter one hundred and sixty-four of the acts one thousand eight hundred and seventy and one thousand eight hundred and seventy-one, ratified the thirtieth day of March, one thousand eight hundred and seventy-one, be amended so as to read Indian run instead of Indian river, and also after the word railroad to insert the words "or tram road."

Amendment.

SEC. 2. That the rights and privileges which can be acquired by the said Albemarle Swamp Land Company in and to any lands across which they are authorized by said act to construct a railroad or tram road shall not be construed to extend beyond an easement, and exclusive right of way, along the line condemned to their use, under the provisions of said act for the period of thirty-years.

Rights and privileges.

Limitation.

SEC. 3. That either the Albemarle Swamp Land Company or the owners of any land over which said railroad or tram road may be laid out may apply to the county commissioners of Beaufort county to appoint five disinterested freeholders, who after being duly sworn by a justice of the peace to act impartially, shall proceed to view the lands so applied to be

Freeholders appointed to assess lands.

- assessed, and shall assess the damages according thereto by reason of the building of said rail and tram road, estimating also the benefit to said lands, and shall also inquire whether George L. Windley has sustained special damage by the location of said road on his ditch bank, and to what extent, if any, and whether the removal of said road therefrom be necessary to the ends of justice between the parties, and their award shall in all respects be final, unless appealed from in thirty days.
- Extent of damages done G. L. Windley. Removal of road. Repealing clause.
- SEC. 4. So much of the act of one thousand eight hundred and seventy and one thousand eight hundred and seventy one, chapter one hundred and sixty-four, as comes in conflict with the provisions of this act is repealed, and no more.
- Ratified the 8th day of February, A. D. 1872.

CHAPTER CLXV.

AN ACT TO CHANGE THE TENTH AND ELEVENTH JUDICIAL DISTRICTS.

- Change of judicial district. SECTION 1. *The General Assembly of North Carolina do enact,* That the county of Ashe shall hereafter be and remain a part of the tenth judicial district, and the county of Henderson shall be and remain a part of the eleventh judicial district.
- Terms of court. SEC. 2. That the superior courts of the county of Ashe shall hereafter be held on the eighth Monday after the third Mondays of March and August of each year; and the superior court for the county of Caldwell, on the tenth Monday after the third Monday of March and August.
- All legal proceedings made returnable to the term of said court as fixed by this act. SEC. 3. That all process, recognizances, and other legal proceedings in civil and criminal actions which have already been issued or may hereafter be issued and had returnable to spring term, one thousand eight hundred and seventy-two, of the superior courts of Ashe and Caldwell counties, shall

be deemed and held returnable to the term of said court as now fixed by this act, and all persons who have been recognized or bound or summoned to appear at the spring term of said court for the year one thousand eight hundred and seventy-two, are hereby required to appear at the term thereof as prescribed in this act.

SEC. 3. This act shall be in force from and after its ratification. When act to be in force

Ratified the 8th day of February, A. D. 1872.

CHAPTER CLXVI.

AN ACT TO PROHIBIT THE SALE OF INTOXICATING LIQUORS IN THE TOWN OF SWANSBORO', OR WITHIN SIX MILES THEREOF, IN THE COUNTY OF ONSLOW.

SECTION 1. *The General Assembly of North Carolina do enact,* That it shall be unlawful to sell intoxicating liquors in the town of Swansboro', or within six miles thereof, in the county of Onslow. Prohibition.

SEC. 2. That any person or persons violating this act shall be guilty of a misdemeanor, and on conviction thereof shall be fined and imprisoned at the discretion of the judge. Penalty.

SEC. 3. This act shall be in force from and after its ratification. When act to be in force.

Ratified the 8th day of February, A. D. 1872.

CHAPTER CLXVII.

AN ACT TO AMEND SECTION TWO, CHAPTER SIXTY-SIX, OF PUBLIC LAWS OF ONE THOUSAND EIGHT HUNDRED AND SIXTY-NINE AND ONE THOUSAND EIGHT HUNDRED AND SEVENTY.

Amendment.

SECTION 1. *The General Assembly of North Carolina do enact*, That section two, of chapter sixty-six, of the public laws of one thousand eight hundred and sixty-nine and one thousand eight hundred and seventy, shall be so amended as to read as follows: That Andrew Dixon, William R. Colvert, and Solomon Cox be and are hereby appointed commissioners to survey and locate that part of the Jefferson and Sparta road from the south fork of New river, at Charles Reives', in Ashe county, to the Mudpike road, at or near Center church, by way of Solomon Cox's.

Appointment of commissioners.

Survey and location of a part of Jefferson and Sparta road.

Oath administered.

SEC. 2. That the above named commissioners shall take an oath before a justice of the peace of said county to faithfully discharge their duties according to section two, chapter sixty-six, of the public laws of one thousand eight hundred and sixty-nine and one thousand eight hundred and seventy.

Repealing clause.

SEC. 3. That all laws or parts of laws coming in conflict with this act are hereby repealed.

When act to take effect.

SEC. 4. This act shall be in force from and after its ratification.

Ratified the 9th day of February, A. D. 1872.

CHAPTER CLXVIII.

AN ACT CONCERNING THE TAXATION OF BANKS.

Repealing clause.

SECTION 1. *The General Assembly of North Carolina do enact*, That so much of any charter of incorporation or other act passed by the general assembly at this session or hereto-

fore, as provides for any other rate or mode of taxation than that required by the provisions of an act entitled an act to raise revenue, ratified the — day of January, *anno domini* one thousand eight hundred and seventy-two, be and the same is hereby repealed.

SEC. 2. That this act shall take effect from its ratification.

When act to take effect.

Ratified the 9th day of February, A. D. 1872.

CHAPTER CLXIX.

AN ACT FOR THE BETTER REGULATION AND PROTECTION OF THE PUBLIC LIBRARIES.

SECTION 1. *The General Assembly of North Carolina do enact*, That the governor and judges of the supreme court and their respective successors in office are appointed trustees of the supreme court library, and all moneys appropriated for its increase shall be laid out under their direction and supervision. That the judges or a majority thereof, or the governor and one of the judges shall constitute a quorum. The clerk of the supreme court shall have charge of the court library and be responsible for the same under such rules and regulations, and entitled to such remunerations as the trustees may prescribe to be paid from the funds appropriated to said library.

Appointment of the trustees of the Superior Court Library.

Governor and one Judge constitute a quorum.

Clerk of Superior Court to have charge of State Library. Remuneration.

SEC. 2. The sum appropriated by section one, chapter ninety-four, of the revised code, shall be equally divided between the supreme court library and the public library.

Distribution of appropriations.

SEC. 3. That the governor, superintendent of public instruction and the secretary of state, and their respective successors in office, are appointed trustees of the public libraries, documents and all books, papers and manuscripts belonging to the state of North Carolina; and under their directions all moneys appropriated shall be expended, whether to the increase of the library or other purposes,

Governor, Superintendent of Instruction and Sec. of State made trustees for the public libraries, books, State papers, &c., of the State.

Pay of Librarian.

except the salary of the librarian, which shall be the same as specified in chapter seventy, section one, of the laws of one thousand eight hundred and seventy and one thousand eight hundred and seventy-one. Any two of the trustees may constitute a quorum for the purpose of transacting any business; and the board of trustees shall make rules and regulations by which the librarian shall be governed for the protection and preservation of the books and library.

Two trustees may constitute a quorum.

Residue of money to be divided between Supreme Court Library and Public Library.

SEC. 4. That any residue of the annual appropriations for the public library, remaining in the treasury on the first day of January, one thousand eight hundred and seventy-one, shall be equally divided between the supreme court library and the public library, to be expended as provided in sections one and three of this act.

When act to take effect.

SEC. 5. This act shall be in force from and after its ratification.

Ratified the 9th day of February, A. D. 1872.

CHAPTER CLXX.

AN ACT SUPPLEMENTAL TO AN ACT ENTITLED AN ACT TO ANNEX A PORTION OF MACON COUNTY TO CLAY COUNTY.

Surveyors appointed.

SECTION 1. *The General Assembly of North Carolina do enact*, That George N. McClure, Jesse Stepp and N. W. Moore, or either of them, are hereby authorized as surveyors to employ such assistance as may be necessary and run and make the line between the counties of Macon and Clay,

Boundary of line.

beginning on the line of Macon county, at the corner of Clay and Cherokee counties, on the top of the ridge dividing the waters of Choga and Fires creeks, and following the line as indicated in act ratified at the present session of the general assembly, annexing a portion of Macon county to Clay county.

SEC. 2. The said surveyors shall, as soon as practicable after making said survey, report their proceedings to the boards of county commissioners of their respective counties, and when said report and survey shall have been received and confirmed by the board of county commissioners of their counties respectively, their said line so marked by said surveyors shall be the lawful boundary line between said counties.

Report of proceedings to be made to Board of Commissioners.

SEC. 3. The expense of said survey shall be paid by Clay county.

Expenses of survey.

SEC. 4. This act shall be in force from and after its ratification.

When act to be in force.

Ratified the 9th day of February, A. D. 1872.

CHAPTER CLXXI.

AN ACT TO DIVIDE NORTH CAROLINA INTO EIGHT CONGRESSIONAL DISTRICTS.

SECTION 1. *The General Assembly of North Carolina do enact*, That for the purpose of selecting representatives in the congress of the United States, the state of North Carolina shall be divided into eight districts, as follows:

Representation in Congress.

1st District.

The first district shall be composed of the counties of Currituck, Camden, Pasquotank, Perquimans, Gates, Chowan, Hertford, Hyde, Beaufort, Pitt, Pamlico, Bertie, Martin, Washington, Tyrrell and Dare.

2d District.

The second district shall be composed of the counties of Edgecombe, Wilson, Greene, Wayne, Lenoir, Jones, Craven, Northampton, Warren and Halifax.

3d District.

The third district shall be composed of the counties of Onslow, Duplin, Sampson, Harnett, Cumberland, Bladen, Columbus, Brunswick, New Hanover, Carteret, Moore.

4th District.

The fourth district shall be composed of the counties of

Johnston, Wake, Chatham, Orange, Granville, Franklin, Nash.

5th District. The fifth district shall be composed of the counties of Randolph, Davidson, Guilford, Alamance, Person, Caswell, Rockingham, Stokes.

6th District. The sixth district shall be composed of the counties of Robeson, Montgomery, Richmond, Anson, Stanly, Cabarrus, Union, Mecklenburg, Gaston, Lincoln, Catawba.

7th District. The seventh district shall be composed of the counties of Forsyth, Surry, Yadkin, Davie, Rowan, Iredell, Alexander, Wilkes, Alleghany, Ashe, Watanga.

8th District. The eighth district shall be composed of the counties of Caldwell, Burke, Cleveland, Mitchell, Yancey, McDowell, Transylvania, Buncombe, Madison, Haywood, Jackson, Swain, Macon, Clay, Graham, Cherokee, Rutherford, Polk and Henderson.

When act to be in force. SEC. 2. This act shall be in force from and after its ratification.

Ratified the 9th day of February, A. D. 1872.

CHAPTER CLXXII.

AN ACT TO LAY OUT AND CONSTRUCT A PUBLIC ROAD FROM PHILLIPS' GAP, ON THE BLUE RIDGE, TO HAMILTON'S MILLS, IN ASHE COUNTY.

Commissioners appointed.

SECTION 1. *The General Assembly of North Carolina do enact*, That Isaac Goodman, Elisha E. Phillips and J. F. Taylor, be and they are hereby appointed commissioners to run out and locate a public road from Phillips' Gap, on the Blue Ridge, to Hamilton's Mills, in Ashe county, on the most direct and practicable route.

Width of road.

SEC. 2. That the said road shall be made eighteen feet wide except where there shall be side cuttings, and in such places it shall be fourteen feet wide.

SEC. 3. That the said commissioners appointed in the first section of this act, shall locate said road so that on ascending any hill or mountain it shall not rise more than one foot in ten. That it shall be the duty of said commissioners to assess such damages as in their judgment may seem just and correct, and report to the county commissioners, and when such report shall be made and confirmed by the county commissioners the same shall be paid as other county claims.

Grade of road and damages.

SEC. 4. That the county commissioners shall have power to appoint overseers to open said road, also to call out all the hands liable to work on public roads under existing laws who reside within three miles of said road by compass line, at such times and for such length of times as will not materially conflict with the farming interest of the county, to construct said road.

Power of Commissioners.

SEC. 5. That when the said road provided for in this act has been constructed, as herein provided, it shall be the duty of the township board of trustees through whose township said road runs, to receive the same and report to the county commissioners that said road has been constructed according to law.

Report to be made on completion of road.

SEC. 6. That this act shall be in force from and after its ratification.

When act to take effect.

Ratified the 9th day of February, A. D. 1872.

CHAPTER CLXXIII.

AN ACT TO AMEND SECTION ONE HUNDRED AND THIRTY-ONE OF THE CODE OF CIVIL PROCEDURE.

SECTION 1. *The General Assembly of North Carolina do enact*, That section one hundred and thirty-one (131), of the code of civil procedure, be amend by striking out the words "may in his discretion," in the fifteenth line, and inserting and substituting the word "shall."

Amendatory clause.

SEC. 2. This act shall be in force from its ratification.

Ratified the 9th day of February, A. D. 1872.

When act to take effect.

CHAPTER CLXXIV.

AN ACT CONCERNING REPRESENTATION IN THE SENATE.

Members of Senate elected by new apportionment of State.

SECTION 1. *The General Assembly of North Carolina do enact,* That after the present session of the general assembly and until the first session of the general assembly which shall be after a new apportionment of the state shall be had in accordance with the terms of the constitution and laws of North Carolina, the senate shall be composed of members elected from districts constituted as follows :

1st district sends two senators.

First District : Currituck, Camden, Pasquotank, Hertford, Gates, Chowan and Perquimans shall elect two senators ;

2d district two senators.

Second District : Tyrrell, Washington, Martin, Dare, Beaufort and Hyde shall elect two senators ;

3d dist. one sen.

Third District : Northampton and Bertie shall elect one senator ;

4th dis. one sen.

Fourth District : Halifax shall elect one senator ;

5th dis. one sen.

Fifth District : Edgecombe shall elect one senator ;

6th dis. one sen.

Sixth District : Pitt shall elect one senator ;

7th dis. two sen.

Seventh District : Wilson, Nash and Franklin shall elect two senators ;

8th dis. one sen.

Eighth District : Craven shall elect one senator ;

9th dis. one sen.

Ninth District : Jones, Onslow and Carteret shall elect one senator ;

10th dis. two sen.

Tenth District : Duplin and Wayne shall elect two senators ;

11th dis one sen.

Eleventh District : Greene and Lenoir shall elect one senator ;

12th dis. one sen.

Twelfth District : New Hanover shall elect one senator ;

13th dis one sen.

Thirteenth District : Brunswick and Bladen shall elect one senator ;

14th dis. one sen.

Fourteenth District : Sampson shall elect one senator ;

15th dis one sen.

Fifteenth District : Columbus and Robeson shall elect one senator ;

16th dis. one sen.

Sixteenth District : Cumberland and Harnett shall elect one senator ;

- Seventeenth District*: Johnston shall elect one senator; 17th dis. one sen.
- Eighteenth District*: Wake shall elect one senator; 18th dis. one sen.
- Nineteenth District*: Warren shall elect one senator; 19th dis. one sen.
- Twentieth District*: Orange, Person and Caswell shall elect two senators; 20th dis. two sen.
- Twenty-first District*: Granville shall elect one senator; 21st dis. one sen.
- Twenty-second District*: Chatham shall elect one senator; 22d dis. one sen.
- Twenty-third District*: Rockingham shall elect one senator; 23d dis. one sen.
- Twenty-fourth District*: Alamance and Guilford shall elect two senators; 24th dis. two sen.
- Twenty-fifth District*: Randolph and Moore shall elect one senator; 25th dis. one sen.
- Twenty-sixth District*: Richmond and Montgomery shall elect one senator; 26th dis. one sen.
- Twenty-seventh District*: Anson and Union shall elect one senator; 27th dis. one sen.
- Twenty-eighth District*: Cabarrus and Stanley shall elect one senator; 28th dis. one sen.
- Twenty-ninth District*: Mecklenburg shall elect one senator; 29th dis. one sen.
- Thirtieth District*: Rowan and Davie shall elect one senator; 30th dis. one sen.
- Thirty-first District*: Davidson shall elect one senator; 31st dis. one sen.
- Thirty-second District*: Stokes and Forsyth shall elect one senator; 32d dis. one sen.
- Thirty-third District*: Surry and Yadkin shall elect one senator; 33d dis. one sen.
- Thirty-fourth District*: Iredell, Wilkes and Alexander shall elect two senators; 34th dis. two sen.
- Thirty-fifth District*: Alleghaney, Ashe and Watauga shall elect one senator; 35th dis. one sen.
- Thirty-sixth District*: Caldwell, Burke, McDowell, Mitchell and Yancey shall elect two senators; 36th dis. two sen.
- Thirty-seventh District*: Catawba and Lincoln shall elect one Senator; 37th dis. one sen.
- Thirty-eighth District*: Gaston and Cleveland shall elect one senator; 38th dis. one sen.

- 39th dis. one sen. *Thirty-ninth District*: Rutherford and Polk shall elect one senator;
- 40th dis one sen. *Fortieth District*: Buncombe and Madison shall elect one senator;
- 41st dis one sen. *Forty-first District*: Haywood, Henderson and Transylvania shall elect one senator;
- 42d dis one sen *Forty-second District*: Jackson, Swain, Macon, Cherokee, Clay and Graham shall elect one senator.
- When act to take effect. SEC. 2. This act shall be in force from and after its ratification.
- Ratified the 9th day of February, A. D. 1872.

CHAPTER CLXXV.

AN ACT SUPPLEMENTAL TO AN ACT PASSED AT THE PRESENT SESSION OR THE GENERAL ASSEMBLY, ENTITLED AN ACT TO LAY OFF AND ESTABLISH A NEW COUNTY BY THE NAME OF GRAHAM.

- Rights of county. SECTION 1. *The General Assembly of North Carolina do enact*, That the county of Graham shall be and is hereby invested with all rights, privileges and immunities of other counties in this state except as is hereinafter provided.
- Surveyor. SEC. 2. N. G. Philips is hereby authorized as surveyor to employ such assistance as may be necessary, and run and make the line between the county of Graham and the
- Boundary of line. county of Cherokee, beginning on the North Carolina and Tennessee states' line, in Cherokee county, and following the line as indicated in an act, ratified at the present session of the general assembly, establishing the county of Graham.
- Election of county officers. SEC. 3. An election shall be held in the county of Graham on the first Thursday in October, one thousand eight hundred and seventy-two, for the purpose of electing a clerk of the superior court, a sheriff, a treasurer, a register of deeds, a surveyor, five commissioners and a coroner who,

after having qualified and filed bonds, as required by law, shall fill their respective offices until their successors shall have been appointed or are elected at their next regular election and shall have legally qualified.

SEC. 4. At the same time, as specified in the foregoing section, a township board of trustees shall be elected in each of the townships in the county of Graham as they now exist, who shall hold their offices until the first Thursday in August, one thousand eight hundred and seventy-four, and until their successors shall have been qualified according to law.

Township election.

Term of service.

SEC. 5. It shall be the duty of the sheriff of Cherokee county, immediately after receiving a certified copy of this act, to advertise by posting a notice at some public place in each township, in the county of Graham, that an election will be held in said county and in each of said townships on the first Thursday in October, one thousand eight hundred and seventy-two, for the purpose of electing the officers aforesaid in sections four and five of this act.

Public notice of election.

SEC. 6. It shall be the duty of the county commissioners of Cherokee county and the sheriff of said county, to make all necessary preliminary arrangements for holding the election aforesaid and at the time aforesaid, in the same way and manner as if the said election was to be held in the county of Cherokee at a regular election; and it shall be the further duty of said sheriff to superintend the holding of said election in the same way and manner as if it was held in the county of Cherokee only, and see that the returns thereof are duly authenticated and returned to the commissioners of Cherokee county, at the court house, in Murphy, on the second Thursday in October next, one thousand eight hundred and seventy two, who shall meet at that time and place for receiving, comparing and announcing the result of said election and issuing certificates to such persons as shall have received the greatest number of votes for the several offices as above enumerated, which several certificates shall be delivered to the sheriff elect for Graham

Sheriff and Commissioners to make arrangements for holding election.

Further duty of sheriff.

Meeting of Commissioners

Certificates issued.

county to be delivered by him forthwith to the parties entitled thereto.

Time and place for meeting of commissioners.

SEC. 7. The first meeting of the county commissioners of Graham county shall be held at King's and Cooper's store, on the waters of Cheoah river, on the third Monday in October, one thousand eight hundred and seventy-two, for the purpose of taking the oath of office to be administered by any acting justice of the peace residing in the county of Cherokee, and said commissioners after having qualified shall be deemed and taken to be, and shall be duly organized a board of commissioners for the county of Graham, with all the ordinary rights, privileges and powers of such board in the several counties of this state.

Oaths administered.

Rights and privileges of board.

Selection of place for holding Superior Court.

SEC. 8. The commissioners of Graham county shall at their first meeting, which may be continued from Monday until Sunday inclusive, select and fix upon a place for holding the superior court and commissioners' courts until a permanent seat of justice shall be determined upon and a temporary court house erected thereat.

Bonds filed during first meeting.

SEC. 9. The sheriff and other officers to be elected under the provisions of this act whose duty it shall be to file bonds shall file the same during the first meeting of the board aforesaid, after which they shall have authority and exercise the rights given respectively to the same officers in the other counties of this state.

Failure of bond significant of refusal to hold office.

SEC. 10. Any officer who shall be elected at the election provided for in this act and who being required to file a bond or bonds shall fail so to do at the first meeting of the board of commissioners of Graham county, shall be taken as declining to fill such office and a vacancy shall exist to be filled according to law.

Official duties performed by Cherokee county officers until regular election.

SEC. 11. That the county officers in the county of Cherokee shall continue in the exercise of all their official duties within the limits of Graham until the commissioners of Graham county are elected and qualified in the same manner and to the same extent as if the county of Graham had not been established.

SEC. 12. That all the civil cases that shall remain on the superior court docket of Cherokee county, including those on the dockets of the judge of probate of Cherokee county, after the first day of October, one thousand eight hundred and seventy-two, in which both plaintiff and defendant are citizens of Graham county, shall be transferred by the clerk of the aforesaid of Cherokee county for trial, under the same rules and regulations that govern the removal of causes from one county to another, except that no order or affidavit of the court shall be necessary thereto, and it shall be the duty of said clerk to deliver the transcript of record of such suits to the clerk of the superior court of Graham county at least twenty days before the spring term, one thousand eight hundred and seventy-three, of said court, and all of said causes shall then stand for trial at that term, and it shall be the duty of the clerk of said court to prepare a docket for the trial of causes and to place the causes transmitted in the same order that they stood on the docket of Cherokee.

Transfer of civil cases from Superior Court docket

SEC. 13. That where criminal actions are now pending in the superior court against any citizen of the county of Graham, or where any shall be instituted at spring term, one thousand eight hundred and seventy-two, the same shall be continued and prosecuted therein, as now provided by law.

SEC. 14. That all persons who may be liable to imprisonment under any process, either civil or criminal, in Graham county before the completion of the jail therein, may be committed to the jail of Cherokee county.

Prisoners.

SEC. 15. There shall be a superior court opened and held for the county of Graham on the first Monday in March, one thousand eight hundred and seventy-three, and regularly in each and every year thereafter as may be prescribed by law, at such places as may be determined upon according to the provisions of section eight of this act, and the judge of the twelfth judicial district shall preside thereat.

Term of Superior Court.

Presiding Judge.

SEC. 16. That N. G. Phillips, James Lathan, James W. Cooper, Ute Hyatt and Hamilton Hays, of Cherokee county, be and they are hereby appointed commissioners to select and determine upon a site for a permanent seat of justice

Commissioners appointed to choose a site for seat of justice.

Time and place
of meeting.

for the county of Graham, and for that purpose shall meet at King's and Cooper's store, in the Checoah Valley, on the first Monday in October, one thousand eight hundred and seventy-two, and if a majority of said commissioners be present they shall proceed from day to day to examine such localities as any two of said commissioners may deem it necessary to visit, in selecting a suitable site for a permanent seat of justice for Graham county. If a majority of said commissioners shall agree upon a single point or place, the same shall be the seat of justice for said county, and they shall report this fact without delay in writing to the chairman of the board of commissioners of Graham county; but in case a majority of said commissioners shall not concur in any one point or place, then they shall name two places and certify the same to the chairman aforesaid, in writing, and in that event the county commissioners of said county shall take such action and make such arrangements as may be necessary to submit the question of place to the qualified voters in said county at an election to be held on the first Thursday in August next, the result of which election shall be ascertained by the sheriff and certified to by him in writing, to the board of county commissioners aforesaid, and the place receiving the highest or greatest number of votes shall be the permanent seat of government of Graham county.

Parties not agreeing as to location, the question must be decided by the qualified voters of county.

Purchase of land for use of county.

SEC. 17. When a permanent seat shall be determined upon according to the provisions of section sixteen of this act, the county commissioners shall proceed at once to procure by donation or purchase not less than twenty acres nor more than fifty acres of land within one mile of the selected point, which land shall be conveyed to the chairman of the board of county commissioners and his successors in office forever for the use of said county, and further, they shall take such action as may be necessary to have said

Conveyance of land to chairman of board.

Town laid off.

laid off in lots and streets of such size and width as they may deem right and proper in said town, which shall be called Robbinsville, and shall be the seat of justice for said county, and after designating such of the lots as shall

Name of town.

be kept for public purposes, the said county commissioners after thirty days public notice made in such way as they may deem best, shall expose said lots or such of them as they think should be sold to sale at public auction on a credit of one, two and three years, with interest from date, taking bond and security of the purchaser therefor, payable to the chairman of the county commissioners of said county, who shall hold the same, subject to the order of his board.

Lots sold at public auction.

Bond and security given.

SEC. 18. That until otherwise provided the distribution of the school fund shall be made and the management thereof in said county of Graham continued as if this act establishing Graham county had never been passed.

Distribution of school fund.

SEC. 19. That the county of Cherokee shall continue to be represented in the general assembly as heretofore, and the qualified voters taken from said county shall continue to vote with the county of Cherokee except in elections for county officers until the general assembly shall otherwise provide, and the sheriff of Cherokee county shall continue to hold all elections save those excepted in this section at the same times and places in all the territory heretofore comprised in the county of Cherokee, and under the same rules, regulations and restrictions, and make the same returns as if the act establishing the county of Graham and this act had never passed.

Continuance of representation in General Assembly

Exceptions of qualified voters.

Sheriff of Cherokee to act for Graham county until provided for by General Assembly.

SEC. 20. The register of deeds in Cherokee county shall on or before the first Monday in November next, furnish to the register of deeds of Graham county, a certified list of all claims due citizens of Graham county with the proper number of such claims prefixed and mark each of such claims on his own docket transferred to Graham county, and shall transmit the same to the register of deeds in said county of Graham, who shall enroll the same for payment therein according to their numerical order.

Certified list of claims to be sent to Register of Deeds of Graham county.

SEC. 21. That after the organization of said county of Graham it shall be the duty of the commissioners of Graham county to appoint one or more persons who may be members of their board to meet with the same number of persons appointed in the same manner by the commissioners of

Commissioners appointed for ascertaining the indebtedness of county.

Cherokee county, whose duty shall be to examine and ascertain the amount of the outstanding debts of Cherokee county at the ratification of this act, and to agree and report to their respective boards the amount of such debts, and also the equitable proportion of said debts that should be assumed by the county of Graham, also the manner in which said equitable proportion may be paid and the time in which it may be paid.

Proportion of debts.

When act to take effect.

Sec. 22. That this act shall be in force from and after its ratification.

Ratified the 9th day of February, A. D. 1872.

CHAPTER CLXXVI.

AN ACT TO INCORPORATE THE HALIFAX AND SCOTLAND NECK RAILROAD COMPANY.

Location of Railroad.

SECTION 1. *The General Assembly of North Carolina do enact as follows:* That for the purpose of constructing a railroad with one or more tracks, from some point at or near Clark's Landing, on Roanoke river, in the state of North Carolina, to some point at or near the town of Halifax, in North Carolina, and through or near the town of Scotland Neck, (as the president and directors may determine) and to such intermediate points and upon such lines as the directors of said road shall determine, Matt' W. Ransom,

Corporate body.

Peter E. Smith, Walter Clark, J. R. Tillery, Richard H. Smith, John C. Randolph, H. L. Tillery, H. J. Hewey, Edward Conigland, W. H. Smith, W. H. Day and W. R. Bond, their associates, successors and assigns are hereby constituted a body politic and corporate, under the name and style of "The Halifax and Scotland Neck Railroad Company," with a capital stock of one million dollars, with the powers and incidents of the North Carolina Railroad Company and other corporations of like nature created by

Corporate name.

Capital stock.

the laws of this state, such corporate existence to continue for ninety-nine years. Limitation.

SEC. 2. The capital stock of said company may be created by subscription on the part of individuals, municipal or other corporations in shares of one hundred dollars each which may be made in land, timber, labor or money, as may be stipulated and agreed to by the corporators aforesaid or the directors of the company. Subscription to stock.

SEC. 3. Books of subscription may be opened by such corporators or by the directors, at such times and places and under such rules and regulations as a majority may determine. Books of subscription.

SEC. 4. When ten thousand dollars shall be subscribed to the capital stock of said company by subscribers, a general meeting of the stockholders shall be held after ten days notice by advertisement in the *Roanoke News*, and such meeting, a majority in interest of the stockholders being present in person or by proxy, shall elect a board of directors of not less than five, and said directors shall elect one of their number president, and said meeting may do all other acts necessary to carry into effect the object of this charter and complete the organization of the company. Meeting of stockholders.

SEC. 5. Whenever any lands shall be required for the construction of the road, or for warehouses, water-stations, turn-outs, workshops or for other buildings or purposes, and for any cause the same cannot be purchased from the owner, the same may be taken by the directors at a valuation to be ascertained as follows: The sheriff of the county in which said land may be, shall at the request of the president of said company, summons five disinterested freeholders of the county who shall ascertain the value, under oath to be administered by the sheriff or any justice of the peace, first deducting the enhanced value of the land caused by the railroad and adding any particular loss or damage, and upon the payment or tender of the amount so assessed the title of the property so seized and appraised shall vest in the corporation, as long as it shall be used for the objects of this charter: *Provided*, That either party may appeal to the superior court of the county upon the question of the Election of President and Directors.

Valuation of land for Railroad purposes.

Manner of valuation. Oath administered.

Title vested in corporation.

Proviso.

Condemnation for right of way. amount so assessed; and further, that the condemnation for right of way shall not extend beyond one hundred feet on each side from the centre of the road, and for other purposes not more than three acres in one tract.

Raising money upon bonds secured by mortgage. SEC. 6. The directors shall have power to borrow money upon the bonds of the company and to secure the same by mortgage or other legal assurance, on such terms as they may deem best.

Exclusive right of conveyance. SEC. 7. Said company shall have the exclusive right to carry and transport freight and passengers over and along said railroad at such rates as the directors shall prescribe, and the company may purchase and hold stock in any other railroad or in navigation companies, and shall have power to buy or lease the same, or to contract for the transportation of passengers or freight over their line.

Rights and privileges. SEC. 8. The railroad company shall have power to cross the tracks of the other railroads, to build branches to the main stem, in any direction, not exceeding twenty miles long. The gauge of said road shall be as the stockholders may determine, not exceeding four feet eight and a half inches.

Crossing tracks, and making branches to main road allowable. Gauge of road. Limitation. SEC. 9. This act shall be in force from its ratification, and the privilege of forming a company under the same shall continue for forty years.

When act to be in force.

Ratified the 9th day of February, A. D. 1872.

CHAPTER CLXXVII.

AN ACT TO INCORPORATE THE NEWBERN AND BEAUFORT CANAL COMPANY.

Canal communication. SECTION 1. *The General Assembly of North Carolina do enact* That for the purpose of providing a communication by water between the city of Newbern and the waters of Beaufort harbor, Alexander C. Davis, William B. Duncan, James Rumley, George W. Dill, John A. Guion, William

J. Clarke, Mathias E. Manly, Robert F. Lehman, Albert G. Hubbard, William H. Oliver, Richard W. King, Henry R. Bryan, Alexander Justice and their successors and assigns, are constituted a company and body politic under the name and style of "The Newbern and Beaufort Canal Company," and as such to have a corporate existence for ninety-nine years, and by that name to sue and be sued, plead and be impleaded. Said company may have a common seal, and shall be capable of purchasing, holding and conveying property, both real and personal, as far as may be necessary for the purposes for which said corporation is instituted; and said company shall be invested with all the powers, rights, privileges, immunities and franchises, which appertain to other like corporations, and shall be authorized to make all necessary by-laws and regulations for its government, not inconsistent with the constitution and laws of the state of North Carolina and of the United States of America.

Corporators.

Corporate name.

Term of time.

Rights, privileges, &c.

SEC. 2. That the persons aforesaid, or any three of them, are hereby appointed commissioners with authority to receive subscriptions to the capital stock of said company, and to open books of subscription therefor at such times and places as they may appoint.

Subscription to capital stock.

Books of subscription.

SEC. 3. That the capital stock of said company shall consist of ten thousand shares of one hundred dollars each.

Amount of capital stock.

SEC. 4. That when the sum of fifty thousand dollars shall have been subscribed *bona fide*, a general meeting of the subscribers shall be called in the city of Newbern, and a majority of the subscribers being present, they shall, from the stockholders, elect a president and four directors for conducting and managing the business and concerns of said company, for a term not less than one year nor exceeding three years, and until their successors shall be elected: *Provided*, That in this as in all meetings of said company, each share of stock shall entitle the holder thereof to one vote.

Meeting of subscribers.

President and Directors elected.

Limitation.

Proviso.

SEC. 5. That certificates of stock in said company shall be issued to the subscribers under the direction of the president and directors, or a majority of them, setting forth the num-

Certificates of stock issued.

ber of shares and the par value thereof, to which each subscriber shall be entitled as shown by the books of subscription, and such certificates shall be signed by the president and secretary of said company, and authenticated by the corporate seal of said company, and shall be recorded in a book kept for that purpose, and all sales or transfers of the interest of any subscriber or stockholder in said company shall be duly recorded in said book: and said stock shall be held and considered as personal property.

Certificate to be recorded.

Power of President to raise money.

Public notification.

Refusal to pay assessment.

SEC. 6. That the said president and directors and their successors or a majority of them, shall have full power and authority from time to time as money may be needed, to make and sign orders for the same to be paid by the subscribers and to declare when the same shall be paid, which orders or assessments shall be advertised at least one month in one or more newspapers published in the city of Newbern; and if any of the subscribers or stockholders of said company shall refuse or neglect to pay such call assessment within ninety days after the same is ordered and advertised as aforesaid, the said president and directors or a majority of them, may sell at auction and convey to the purchaser thereof, the share of such delinquent subscriber or stockholder, giving at least one month's notice of said sale in at least one newspaper published in the city of Newbern: and after retaining the sum due and charges for advertising and sale out of the moneys produced thereby, they shall refund and pay the overplus, if any, to the former owners or their legal representatives; and if said sale shall not produce the full amount of the assessment laid and due as aforesaid, with the incidental charges, then the president and directors or a majority of them, may in the name of the company, sue and recover the balance due; and the purchaser or purchasers of delinquent stock shall be subject to the same rules, regulations and liabilities as original subscribers.

Suit may be brought.

Lands received in payment.

SEC. 7. The said company shall be authorized and empowered to receive lands in payment of subscriptions to its

capital stock, and to lease or dispose of the same for the uses of the corporation.

SEC. 8. The said company shall have full right and lawful authority to issue bonds in such sums, and payable at such times and places as they may deem necessary, and to secure the same by mortgage upon its property and franchises, and the same shall be exempt from taxation by the state or any county.

Bonds issued.

Mortgage security.
Exemption from tax.

SEC. 9. Whenever it shall be made to appear to the satisfaction of the governor of this state that said company has in good faith expended twenty thousand dollars (\$20,000.) upon the said canal or its appurtenances, it shall be his duty to execute, under the great seal of the state, a deed of release or quit claim in favor of said company of all right, title and interest on the part of the state, of, in and to the Clubfoot and Harlow's Creek Canal and its appurtenances, and fully to invest the said company with all the property and rights of the state in the same.

Deed of release.

SEC. 10. Said company shall be authorized and empowered to purchase and hold any river or sea-going vessels which they may deem necessary or convenient for its business.

Company may purchase vessels.

SEC. 11. The said company shall have full right and authority to dredge out or change the course of any creek, river or bay, with which the proposed canal may connect, and to erect, locate or station therein all such monuments, beacons, buoys or spars, as may be necessary for the navigation of the same.

Right to change the course of rivers, creeks, &c.

SEC. 12. The said company shall be authorized to levy demands and receive reasonable fares tolls, freights and charges for the use of the canal or any part or appurtenance thereof, and shall establish, prescribe and publish rules and regulations therefor; and any person wilfully and knowingly violating the same, shall be punishable therefor as for a misdemeanor, on complaint of said company, before any justice of the peace in the counties of Craven or Carteret or by indictment before the superior court of either of said counties.

Fares, tolls, freights to be received.

Violation of rules a misdemeanor.

When guilty of
misdemeanor.

SEC. 13. Any person who shall wilfully injure any of the embankments, tow-paths, sluices, cuts, locks, buildings or other property of said company, or shall obstruct said canal or its appurtenances by felling trees therein or otherwise, shall be deemed guilty of a misdemeanor.

Condemnation of
land.

SEC. 14. That the land on each side of said canal for a distance of not exceeding two hundred and ten feet (210,) shall be condemned for the use of said company, and the proceedings of said company in relation thereto or of the land owner seeking indemnity therefor, shall be the same as are prescribed in the fifth section of an act of this general assembly, ratified on the 31st day of March, *anno domini* one thousand eight hundred and seventy-one, entitled "An act to incorporate the Kinston and Kenansville Railroad Company."

Ratified the 9th day of February, A. D. 1872.

CHAPTER CLXXVIII.

AN ACT TO INCORPORATE THE RALEIGH AND FAYETTEVILLE RAILROAD COMPANY.

Corporators.

SECTION 1. *The General Assembly of North Carolina do enact*, That it shall be lawful for George W. Pegram, Christopher C. Barbee, C. H. Coffield, Malcolm McKay and H. W. Prince, of the county of Harnett, Sion H. Rogers and A. H. Betts, of the county of Wake, Wm. B. Laster, A. H. McKethan and John H. Cook, of the county of Cumberland, to open books of subscription at such places and under the direction of such persons as they may name for the purpose of receiving subscriptions to the capital stock of the Fayetteville and Raleigh Railroad Company by such writ as may be selected or agreed upon by the stockholders in general meeting assembled or with their permission by the board of directors to be selected by them at their first meeting; that

Books of sub-
scription.

the books of subscription may be kept open until the sum of fifty thousand dollars shall be subscribed and secured, to be paid in land, labor, materials or money, as may be agreed on by said commissioners, as soon as the sum of fifty thousand dollars shall have been subscribed, the commissioners above named shall advertise in one or more newspapers published in the city of Raleigh and Fayetteville for sixty days previous to the meeting, giving notice of the time and place of said meeting.

Subscription to stock may be made in land, labor or materials

Public notice of meeting.

SEC. 2. When the sum of fifty thousand dollars, in shares of fifty dollars each, shall have been subscribed the above named parties and their successors shall be and they are hereby declared to be a body corporate by the name and style of "The Raleigh and Fayetteville Railroad Company," and by that name may sue and be sued, plead and be impleaded and shall possess and enjoy all the rights, privileges and immunities of a corporation or body politic in law, and may make all such by-laws, rules and regulations, not inconsistent with the laws or constitution of this state or of the United States, as may be necessary for the well ordering and conducting the affairs of the company.

Corporate name.

Rights and privileges.

SEC. 3. That a majority of the commissioners above named shall constitute a quorum for the transaction of any business until the company is duly organized; that at every annual meeting the company shall select a president and five directors who shall continue in office until their successors are elected, and any vacancy that may occur shall be filled by the board of directors until the next annual meeting of the stockholders. The president with any three of the directors may constitute a quorum for the transaction of the business of the board, or in the absence of the president, any three of the directors.

Quorum.

Annual meeting.

President and directors.

Vacancies.

SEC. 4. That the president and directors of the said company shall be and they are hereby invested with all rights and powers necessary for the construction, equipment and repairs of said railroad to be located so as to begin at any point on the North Carolina Railroad, east or west of Raleigh, or at any point on the Chatham Railroad, or at any point on the

Power of President and directors.

Location of road. Western Railroad, thence by the most practicable route, to be determined by them, through the county of Harnett to Fayetteville, or so as to begin at Fayetteville and be prosecuted in such direction as the stockholders shall direct, and may cause to be constructed all works whatsoever, which may be necessary and expedient, in order to the completion of said road.

Mortgage bonds issued. SEC. 5. That the said company at its annual or any called meeting of the stockholders shall have power to authorize the president and directors to issue mortgage bonds of said company to an amount not exceeding two million of dollars, the interest payable semi-annually, and the principal thereof payable in thirty years from the date thereof, at such rate of interest as may be agreed on and expressed therein, that they may lease said road or any portion thereof as the same may be completed, from time to time, to any road with which it may be connected, and may receive subscriptions to the capital stock from any railroad company in or out of the state. That said company may insure the lives of any of its stockholders or may insure the lives of any persons not stockholders, and said policies being paid up policies for the full amount insured may be deposited by the said railroad company as collateral security to be attached to the mortgage bonds of said railroad, and on the death of the parties insured to be applied to the payment of the bonds to which said policy of insurance may be attached. The said mortgage bonds to be signed by the president and countersigned by the secretary, with the seal of the company attached.

Limitation, Life insurance. SEC. 6. The president of the company shall be elected by the stockholders, and the secretary and treasurer by the board of directors, and shall hold their office until the next annual meeting or until their successors are appointed, the treasurer to give bond in such sum as the board of directors may determine.

Bonds to be signed by President. Election of officers. SEC. 7. If the president and directors cannot agree with the owner of lands through which the road may pass as to the terms which said road shall be opened through the same,

Bond required of Treasurer.

Disagreement as to terms.

Collateral security.

then it shall be lawful for the president and directors to call upon the sheriff to summon a jury of twelve men to go upon the lands and take into consideration the advantages and damages, and assess the advantages, if any, actually sustained, which amount may be paid by the president and directors to the owner of said land or into the office of the superior court of the counties in which the land is situated, and then enter upon the land so laid off by the jury, and construct the road thereon and make all necessary excavations and embankments and all other necessary structures, and to hold the said land to their own use during their corporate existence as owners in fee simple: *Provided*, This privilege shall not be allowed them to lay off said road through any yard, garden, burial ground attached to any dwelling house or any plantation without the consent of the owner thereof. That said president and directors may in like manner enter upon any adjacent land to procure stone, timber or earth for the construction and repairs of said road: *Provided*, That for this purpose they shall not enter upon any cleared or cultivated land and cut down fruit trees or shade trees, or trees preserved for ornament, and in case of a jury being called to assess damages, either parties not satisfied with this verdict may appeal to the superior court. Whenever it shall be necessary to cross or use any public road they shall so construct their road as not to impede the travel on said road known as public roads, or in case they should pass through any cultivated fields that they shall so construct said road as not to leave the field open and expose to depredations from stock running at large.

Jury to be summoned

Assessment made
Proviso.

Proviso.

Material for construction.

Proviso.

Appeal to Superior Court.

SEC. 8. That it shall be lawful for the president and directors to determine from time to time what instalments shall be paid on stock subscribed; the shares of stock in said company shall be deemed to be personal property.

Instalments paid on stock.

SEC. 9. That the capital stock of said company may be increased to two millions of dollars, but as soon as the sum of fifty thousand dollars shall be subscribed and secured. That the company may organize and then proceed to con-

Increase of capital stock.

trust their road by sections, as they may be able to do so, from time to time.

When act to be in force
Repealing clause.

SEC. 10. That this act shall be in force from and after the ratification thereof, and all laws and clauses coming within the provision and meaning of this act be and the same are hereby repealed.

Ratified the 9th day of February, A. D. 1872.

CHAPTER CLXXIX.

AN ACT FOR THE RELIEF OF EXPRESS COMPANIES.

Articles of called
for within a speci-
fied time may be
sold.

SECTION 1. *The General Assembly of North Carolina do enact*, That whenever any express company exercising the right and privilege of transportation for hire in the state, shall have received at the place designated for their delivery any articles of property, and the same shall not be called for and delivered according to the terms upon which such company may have agreed to carry them, within six months from and after the time of receiving them at said place of delivery, then and in that case it shall be lawful for such company to sell for cash the said articles of property at public auction at such place as may be designated by the company, after having duly advertised the time, place and terms of sale for the space of thirty days in some newspaper published in the county, or as near thereto as may be, wherein such sale is intended to be made; and the proceeds of sale shall be applied in the first place to the payment of all costs and charges of carriage due to such company, together with all expenses incident to the making of such sale, and then the residue, if any, to be deposited in some convenient national bank, located in the state, to be selected by the company, for the use and benefit of such person as may be entitled thereto.

Application of
proceeds of sale.

SEC. 2. This act shall be in force from and after its ratification. When act to be in force.

Ratified the 9th day of February, A. D. 1872.

CHAPTER CLXXX.

AN ACT TO ESTABLISH THE RATES OF THE PUBLIC PRINTING AND FOR OTHER PURPOSES.

SECTION 1. *The General Assembly of North Carolina do enact*, That the joint committee on printing are directed and instructed, on the part of the state of North Carolina, to make, execute, and deliver a contract for the public printing at the following rates: For every one thousand ems of plain work, sixty cents; for every one thousand ems of rule and figure work, one dollar and twenty cents. For every token of two hundred and forty (240) impressions, fifty cents, and for all other work ordered by the state, the usual, customary rates charged by printers for such work, to be approved by the auditing committee herein provided for, in section three of this act. Contract of Public printing.

SEC. 2. That the party to whom said committee may award the public printing, shall give bond with approved security, payable to the state of North Carolina, in the sum of five thousand dollars, conditioned for the faithful performance of his duties and undertakings under the contract and under the provisions of this act, the surety or sureties herein required shall justify before some person authorized to administer oaths. Rates of printing

SEC. 3. That each bill against the state for printing shall be charged by the "quad em" and token, and shall be approved by two practical printers of integrity entirely disinterested in the matter, who shall be selected one by the auditor and the other by the public printer. Said practical printers so chosen, shall before entering upon any Bond given with security.

Charge of bills.

Qualification of Printers.

examination by this section required, qualify before some magistrate to impartially examine said printing and determine both the manner of its execution and the correctness of the account rendered for the same: *Provided, however,* That such practical printers shall not be called on to examine any printing or to determine the correctness of any account until the accounts rendered amount in the aggregate to one hundred dollars or more, except upon the final settlement of the public printer's accounts against the state.

Proviso.

Accounts not audited until examined.

SEC. 4. That no account rendered for public printing under the contract herein directed to be made, shall be audited until the work charged for shall have been examined and the account shall have been approved by two practical printers, as provided in the preceding section, who shall certify that the workmanship of said printing is properly executed and the accounts for the same are just and accurate.

Violation of this section a misdemeanor
Penalty.

Any violation of this section shall be a misdemeanor, and the auditor on conviction thereof shall be fined and imprisoned at the discretion of the court.

Contracting party to have the binding done.

SEC. 5. That the party contracting to do the public printing shall also undertake and agree to cause all necessary binding for the state to be done at usual and customary rates for the kind and quality of work. But accounts for binding must be approved by the auditor, who may in his discretion call on two disinterested printers or binders to examine the work, and under oath to certify to the justness and accuracy of the accounts.

Requirements of public printing.

SEC. 6. That the public printer shall execute the public printing in such manner as is prescribed by chapter seventy (70) of the revised code; and shall furnish the number of copies of each piece of work required by existing law.

Paper furnished by Sec. of State.

SEC. 7. That it shall be the duty of the secretary of state to furnish the public printer, on his requisition and receipt for the same, such printing paper as may be necessary in executing the public printing.

Duties of Sec. of State.

SEC. 8. That it shall be the duty of the secretary of state to have ready for delivery to the public printer, copies of all acts, resolutions and papers required to be printed and

Public Laws.

bound with the public laws within ten days after the adjournment of the general assembly; and also to have copies of such acts, resolutions, &c., required to be printed and bound with private laws, ready for delivery within fifteen days after such adjournment; but this shall not be construed to relieve the said secretary of the duty heretofore enforced by law, to have all acts, resolutions, &c., copied as fast as ratified. It shall be the duty of the respective clerks of each house of the general assembly to deliver copies of the journals of the same to the public printer within fifteen days after adjournment, and to have the printed copies of the same properly indexed. And it shall be the duty of the public printer to obtain on each day after the execution of his contract from the secretary of state, such acts, resolutions, &c., as may be ready for delivery according to law. It shall also be his duty to deliver the required number of printed and bound copies of the public laws containing such matter as may be directed by the secretary of state, and an index of the same, to the secretary of state, within sixty days after the adjournment of the general assembly; and for each day thereafter he shall fail so to do, the auditor shall deduct from his account for printing, the sum of twenty-five dollars, unless his delay is properly chargeable to the failure of the secretary of state to perform his duty in delivering the copies as herein required. And the public printer shall in like manner deliver to the secretary of state, the required number of private laws, journals, legislative documents, authorized and directed by law to be published, within ninety days after said adjournment. And if the said clerks of the houses of the general assembly or the secretary of state, shall fail to deliver the copies herein required to be delivered within the times specified respectively, each one so failing shall forfeit and pay into the public treasury, five dollars for each day he may be in default, to be recovered by the auditor by warrant in a civil action before any justice of the peace in and for the county of Wake.

SEC. 9. It shall be the duty of the secretary of state immediately on the delivery to him by the public printer of

Time Specified.

Private laws.
Time specified.

Copies of Journals of Gen. Assembly to be given to public printer.

Duty of public printer.

Specified time for delivering bound copies of Public Laws.

Deduction from wages in cases of failure.

Specified time for delivery of Private Laws, Journals, &c.

Failure of delivery of copies by Clerks of House and Sec. State how dealt with.

Distribution of Public Laws.

the public laws, as required in the preceeding section, to cause the same to be distributed according to the provisions of existing laws, either by mail or express as may be the cheaper mode of distribution. And as soon as the other documents required to be distributed shall be ready to be sent out, he shall cause them to be distributed according to law by mail or express, whichever may be the cheaper mode.

When act to take effect.

SEC. 10. That this act shall take effect from its ratification. Ratified the 10th day of February, A. D. 1872.

CHAPTER CLXXXI.:

AN ACT TO AUTHORIZE AND EMPOWER THE GOVERNMENT OF THE UNITED STATES TO PURCHASE AND HOLD LANDS IN NORTH CAROLINA FOR THE PURPOSE OF A NATIONAL CEMETERY.

National Cemetery.

SECTION 1. *The General Assembly of North Carolina do enact*, That it shall be lawful for the government of the United States, or any person under authority of the same, to purchase a tract, piece or parcel of land in the county of Rowan and state of North Carolina, now occupied as a national cemetery: *Provided*, Said tract or parcel of land shall not exceed ten acres.

Proviso.

Deeds registered.

SEC. 2. That all deeds, conveyances or other title paper for the same shall be recorded as in other cases in the office of the register of deeds in which the land so conveyed may lie, in the same manner and under the same regulations as other deeds and conveyances are now recorded, and in like manner may be recorded a sufficient description by metes and bounds, courses and distances of any tract or tracts or legal division of any public land belonging to the United States, which may be set apart by the general government

Description of Tracts.

for the purpose beforementioned by an order, patent or other official document or papers so describing such land.

SEC. 3. That the said lot or parcel of land, together with the tenements and appurtenances for the purpose beforementioned, shall be exempt from taxation by the state of North Carolina.

Exemption from tax.

SEC. 4 That nothing herein contained shall be so construed as to ban or hinder any of the officers of this state from executing any process or levying an execution within the limits of said tract or parcel of land so held and purchased by the government of the United States, in the same manner as if this act had never been passed.

Officers of State can levy executions.

SEC. 5. That this act shall be in force from and after its ratification.

When act to be in force.

Ratified the 10th day of February, A. D. 1872.

CHAPTER CLXXXII.

AN ACT SUPPLEMENTAL TO AN ACT TO LAY OFF AND ESTABLISH THE NEW COUNTY OF PAMLICO.

SECTION 1. *The General Assembly of North Carolina do enact*, That the county of Pamlico shall be and is hereby invested with all the rights, privileges and immunities of other counties of the state except as hereinafter provided.

Rights and privileges of County.

SEC. 2. *Be it further enacted*, That James S. Lane, William H. Tripp and Samuel Latham are hereby appointed a board of commissioners to run and mark the line between the county of Pamlico and Craven county, and also between the county of Pamlico and Beaufort county, beginning at the headwaters of Deep Run, in Craven county, and running a direct line to the headwaters of Durham's creek, in Beaufort county, and thence the courses described in the original act, to the head of Bailey's creek, in Beaufort county; and shall make a report thereof under their hands

Commissioners.

Boundary of line.

- Commissioners report. and seals to the commissioners of Craven, Beaufort and Pamlico counties, which report shall form a record of the courts of said counties. Said commissioners shall also furnish the county commissioners of Pamlico county with a map of said county of Pamlico.
- Surveyor appointed. SEC. 3. *Be it further enacted*, That the commissioners for laying off and establishing the line between Pamlico, Craven and Beaufort counties shall have power to employ a surveyor and such other help as may be necessary for the accomplishment of said work, and they shall be allowed a reasonable compensation for their services to be paid by their respective counties, the surveyor and chopper to be paid by Pamlico county.
- Compensation. SEC. 4. *Be it further enacted*, That when the boundary line of the said Pamlico county shall divide any township of Beaufort or Craven counties heretofore established, any officer of said township who shall reside in said Pamlico county shall continue to hold his office and exercise the powers thereof in the county of Pamlico until his successor is elected and qualified as hereinafter provided.
- A division of Townships may affect office holders in Pamlico County. SEC. 5. *Be it further enacted*, That the sheriff's and other county officers of Craven and Beaufort counties shall continue to exercise all the functions of their respective offices in those detached portions of said counties until the county officers of Pamlico county shall be elected and qualified.
- County officers of Craven and Beaufort to continue in office. SEC. 6. *Be it further enacted*, That the governor shall order an election to be held in Pamlico county on the first Thursday in May, one thousand eight hundred and seventy-two, submitting to the qualified voters within the limits of Pamlico county the adoption or rejection of the county of Pamlico, and the returns of said election shall be made to the sheriff of Craven county who shall (on the first Monday after said election, in the presence of three freeholders summoned for that purpose, two of which shall be from the county of Pamlico), proceed to compare the polls of said election, and if after due examination it shall be found that a majority of votes have been given in favor of establishing the county of Pamlico, then it shall be the duty of said
- Election held.
- Returns made to Sheriff.
- Manner of decision.

sheriff to forward to the governor of the state a certificate of the same, within ten days after said election, and then the governor shall make known the fact by proclamation, upon which this act and the act to which this is supplemental shall take effect, otherwise both acts shall be null and void.

Proclamation.

SEC. 7. *Be it further enacted*, That if the county of Pamlico be ratified by the voters thereof, an election shall be held in said county on the first Thursday in August, one thousand eight hundred and seventy-two, for the following county officers, viz: five county commissioners, one sheriff, one clerk of superior court, one register of deeds, one treasurer, one coroner and one county surveyor, said officers to be qualified at the first meeting of county commissioners, who may be qualified by any *acting justice of the peace* in said Co.

Ratification by voters.

County officers elected.

SEC. 8. *Be it further enacted*, That at the same time and places as the election for county officers in Pamlico county, the question of locating the county site of said county may be voted upon, and the locality receiving the greatest number of votes shall be selected by the county commissioners as the county site; and it shall be the duty of said commissioners to purchase or receive by donation a tract of land, not less than twenty acres, to be conveyed to the county commissioners and their successors in office in fee simple for the said county of Pamlico, upon which tract of land the courthouse and jail shall be erected, allotting one acre for the same, the remainder of said tract of land shall be laid off in lots of half acre each, and it shall be the duty of the county commissioners to expose said lots to public sale, and the proceeds of such sales be appropriated to the building of said courthouse and jail, and if such proceeds are not sufficient for said purpose, then the commissioners may levy a tax to supply the deficiency: *Provided*, Said tax shall be levied on the taxable property and *polls* of said county, and shall be collected in the same manner as other taxes are collected.

Location of County site.

Limitation of tract.

Court House and Jail erected.

Sale of lots.

Tax levied for deficiency of funds. *Provided*.

SEC. 9. *Be it further enacted*, That the county commissioners shall have power to contract for the building of a

Contracts for building Court House.

courthouse and jail within three years from the passage of this act, unless a majority of the commissioners should otherwise order; said commissioners shall also have power to select a temporary place for holding the courts of said Pamlico county until a permanent courthouse can be built as heretofore provided: *Provided*, That such commissioners in locating said temporary courthouse shall take into consideration the convenience and interest of the people of the county.

Proviso.

Tax levied in Pamlico.

SEC. 10. *Be it further enacted*, That the county commissioners of Craven and Beaufort counties levy such taxes within the limits of Pamlico county as they levy in other portions of said counties, according to taxable property and polls: *Provided*, It shall be the duty of the sheriff, county commissioners and treasurers of Beaufort and Craven counties to turn over to the officers of Pamlico county in their respective capacities all such taxes due for state and county purposes, or all moneys collected for taxes due for state and county purposes for the year one thousand eight hundred and seventy-two, so soon as the county officers of Pamlico county shall be qualified.

Proviso.

Conference of Commissioners.

SEC. 11. *Be it further enacted*, That the county commissioners of Pamlico county shall be and are hereby empowered to appoint three or more commissioners to confer with the commissioners of Craven and Beaufort counties for the purpose of ascertaining the proportionate part of the public debt of Craven and Beaufort counties, to be assumed by Pamlico county and such settlement shall be based upon the amount of taxable property and polls according to the valuation of property in the year one thousand eight hundred and sixty, when such debt was contracted: *Provided*, nevertheless, That (should the commissioners of Craven county or Beaufort county either neglect or refuse to turn over to the commissioners of Pamlico county their part and full portion of railroad stocks in the Atlantic and North Carolina Railroad Company,) for which one hundred and forty-five thousand dollars and (five hundred dollars) of the public debt was created, or any other bonds or stocks held

Proportion of public debt.

Basis of debt.

Proviso.

by the county of Craven) within one year after the demand for such settlement has been made by the commissioners of Pamlico county, then the commissioners of said Pamlico county and the citizens thereof shall not be held bound to Craven county for any part of said debt contracted as subscription to the Atlantic and North Carolina Railroad.

SEC. 12. *Be it further enacted*, That the jurisdiction of the superior court be and the same is hereby extended to and over Pamlico county in the same manner as the said court has in and over the several counties of this state, and the judge for the third judicial district shall hold the superior court for said county of Pamlico on the sixteenth Monday after the fourth Monday in August and February, and all cases, both civil and criminal, within the bounds of said county of Pamlico, shall be tried in said court: *Provided*, That actions and suits affecting citizens of Pamlico county pending in the superior courts of Beaufort or Craven counties, may be continued in those counties at the option of the parties, but when such cases shall be transferred to the superior court of Pamlico county there shall be no prejudice by reason of such transfer, and all persons who may be liable to imprisonment in Pamlico county before the completion of a jail in said county, shall be committed to the jail of Craven or Beaufort counties.

SEC. 13. *Be it further enacted*, That the officers of Pamlico county who may be elected on the first Thursday in August, one thousand eight hundred and seventy-two, shall hold for one year only, and another election shall be held in August, one thousand eight hundred and seventy-three, and every two years after.

Ratified the 10th day of Februray, A. D. 1872.

CHAPTER CLXXXIII.

AN ACT TO PREVENT THE FELLING OF TREES INTO THE WATERS OF UWHARIE RIVER, RANDOLPH COUNTY, AND THE THROWING OF OTHER OBSTRUCTIONS THEREIN.

Prohibition
against felling
trees, &c.

SECTION 1. *The General Assembly of North Carolina do enact*, That if any person shall fell any trees into the waters of Uwharie river or throw any other obstruction therein (without removing the same a once,) at any point between Rush's mills, in Randolph county, and the Montgomery county line, said person shall be subject to all damages arising therefrom, and also be deemed guilty of a misdemeanor, and upon conviction before any court having jurisdiction of such offence shall be punished at the discretion of said court: *Provided*, That dams for the construction of mills and other machinery shall not be regarded as obstructions within the meaning of this act.

Misdemeanor.

Proviso.

When act to be in
force.

SEC. 2. This act shall be in force from and after its ratification.

Ratified the 10th day of February, A. D. 1872.

CHAPTER CLXXXIV.

AN ACT FOR THE BETTER PROTECTION OF OYSTERS AND TERRAPINS IN THE WATERS OF NORTH CAROLINA.

Protection of
Oyster, beds.

SECTION 1. *The General Assembly of North Carolina do enact*, That any person catching or taking oysters from the native rocks in any of the waters of North Carolina during the months of May, June, July and August, for the purpose of selling the same, shall be guilty of a misdemeanor, and upon conviction thereof, before a justice of the peace, shall be

fined not exceeding fifty dollars and be imprisoned not exceeding one month. Penalty.

SEC. 2. That any person who shall catch or take from the salt waters of North Carolina terrapins less in length than four inches, for the purpose of selling the same, and any person who shall sell or buy the same when so caught or taken, shall be guilty of a misdemeanor, and upon conviction thereof, before a justice of the peace, shall be fined not exceeding fifty dollars and be imprisoned not exceeding one month Penalty.

SEC. 3. That sections one and two, of chapter eighty-one, of the revised code, are hereby repealed. Repealing clause.

SEC. 4. That any person violating the fourth section, of chapter thirty-three of the acts of one thousand eight hundred and fifty-eight and one thousand eight hundred and fifty-nine, entitled "an act to promote and encourage the planting of oysters and clams," shall, in addition to the penalties contained in said section, be guilty of a misdemeanor and upon conviction thereof, before a justice of the peace, shall be fined not exceeding fifty dollars and imprisoned not exceeding one month: *Provided*, That nothing in this act shall be construed to apply to those who catch oysters and clams to supply the local demand in the town of Beaufort and city of Morehead. Additional penalties for violation.

SEC. 5. That all laws and clauses of laws in conflict with this act are hereby repealed. Proviso.

SEC. 6. That this act shall be in force from and after its ratification. Repealing clause.

Ratified the 10th day of February, A. D. 1872. When act to be in force.

CHAPTER CLXXXV.

AN ACT CONCERNING THE ELECTION AND REGISTRATION IN THE YEAR OF OUR LORD ONE THOUSAND EIGHT HUNDRED AND SEVENTY-TWO.

Date of Election.

SECTION 1. *The General Assembly of North Carolina do enact*, There shall be an election held for the following officers, on the first Thursday of August, in the year of our Lord one thousand eight hundred and seventy-two :

First, governor; second, lieutenant governor; third, secretary of state; fourth, auditor; fifth, treasurer; sixth, superintendent of public instruction; seventh, superintendent of public works; eighth, attorney general; ninth, members of congress in the several districts; tenth, members of the general assembly for their respective counties and districts, and eleventh, a county treasurer; twelfth, a register of deeds; thirteenth, county surveyor; fourteenth, five county commissioners; fifteenth, a coroner; sixteenth, a sheriff, for their respective counties.

Officers to be elected.

Polling places how established.

SEC. 2. The county commissioners shall have power to establish, alter, discontinue or create such separate places of election in their respective counties as they may deem expedient, giving thirty days notice thereof by advertisement in some public journal, if there be one published in the county, or in lieu thereof in three places in such county and at the courthouse thereof, but there shall be at least one polling place in every township, as nearly central as possible, and there shall be a polling place open in each ward of a city numbering over three thousand inhabitants.

Advertised.

One in each township.

In cities.

Secretary of the State to supply registration books.

SEC. 3. The secretary of state shall, on or prior to the first Monday of June, year of our Lord one thousand eight hundred and seventy-two, provide for and forward to the commissioners of counties, on their requisition, suitable registration books, when needed, for each election precinct as established heretofore, and for any new precincts which may be established under this act.

SEC. 4. If the commissioners of counties do not receive a sufficient number of registration books, as provided in the last section, they are authorized and directed to provide the same for their respective counties at the expense of the state.

Books to be provided by commissioners, when.

SEC. 5. The commissioners of counties shall select, on or before the first Monday of July, year of our Lord one thousand eight hundred and seventy-two, one justice of the peace for each election precinct, who shall act as registrar of voters for such precinct; and when for any cause there are not enough justices of the peace to have one at each precinct, the commissioners shall appoint some discreet person to act as registrar of voters. Said commissioners shall make publication of the names of the persons so selected, at the courthouse door, immediately after such appointment, and shall cause a notice to be served upon said persons by the sheriff.

Registrar of voters how and when appointed.

SEC. 6. Registrars shall be furnished with a registration book, and it shall be their duty to revise the existing registration books of their precinct or township in such manner that said books shall show an accurate list of electors previously registered in such precinct or township, and still residing therein, without requiring such electors to be registered anew; and such registrars shall also between the hours of sunrise and sunset on each day (Sundays excepted) from the first Thursday in July, one thousand eight hundred and seventy-two, up to and including the day preceding the first Thursday in August, one thousand eight hundred and seventy-two, keep open said books for the registration of any electors residing in such precinct or township and entitled to registration, whose names have never before been registered in such precinct or township, or do not appear in the revised list.

Duties of Registrars.

SEC. 7. No elector shall be entitled to register or vote in any other precinct or township than the one in which he is an actual and *bona fide* resident on the day of election, and no certificates of registration shall be given.

Where electors may vote.

Registration
books opened to
inspection.

SEC. 8. It shall be the duty of the registrar and judges of election to attend at the polling place of their township or precinct with the registration books on the Saturday preceding the election, from the hour of nine o'clock A. M., till the hour of five o'clock P. M., when and where the said books shall be open to the inspection of the electors of the precinct or township, and any of said electors shall be allowed to object to the name of any person appearing on said books. In case of any such objection the registrar shall enter upon his books opposite to the name of the person so objected to, the word "challenged," and shall appoint a time and place on or before the election day, when he, together with said judges of election, shall hear and decide said objection, giving due notice to the voter so objected to: *Provided*, That nothing in this section contained shall be construed to prohibit the right of any elector to challenge or object to the name of any persons registered, or offering to register, at any time other than that above specified. If any person challenged or objected to shall be found not duly qualified, as provided in this act, or as provided in the constitution, the registrar shall erase his name from the books.

Right of chal-
lenge

Appointment of
Judges of elec-
tion.

SEC. 9. The county commissioners, on or before the first Monday of July next, shall appoint four judges or inspectors of election, two of whom shall be of a different political party where possible, from the registrar, at each place of holding election in their respective counties. The said judges of election shall attend at the places for which they are severally appointed, on the day of election, and they together with the registrar for such precinct or township, who shall attend with his registration books, after being sworn by some justice of the peace or other person authorized to administer oaths, to conduct the election fairly and impartially according to the constitution and laws of the state, shall open the polls and superintend the same until the close of the election. They shall keep poll books in which shall be entered the name of every person who shall vote; and at the close of the election the judges of election shall certify the same over their proper signatures, and deposit them with the register

Their duties.

To attend elec-
tion.

Keep poll books.

of deeds for safe keeping. And said poll books shall in any trial for illegal or fraudulent voting be received as evidence. The county commissioners shall immediately after the appointment of the judges of election, as herein provided, furnish a list of the names of such judges to the sheriff of their county, who shall within ten days send notice of such appointment upon the said judges; and if, for any cause, any person appointed judge of election shall fail to attend, the registrar of such township shall appoint some discreet person to act as such, who shall be by him sworn before acting, and shall be of the same political party as the absent judge or judges.

Commissioners to furnish lists of judges to sheriff.

Judges failing to attend.

SEC. 10. Every male person born in the United State and any male person who has been naturalized, twenty-one years old or upwards, who shall have resided in the state twelve months next preceding the election and thirty days in the county in which he offers to vote, shall be deemed an elector in the township in which he resides, and shall be entitled to registration upon application, upon taking the following oath: "I, —, do solemnly swear (or affirm) that I will support the constitution and laws of the United States, and the constitution and laws of North Carolina not inconsistent therewith; that I have been a resident in the state of North Carolina for twelve months, and in the county of — for thirty days, and that I have not registered for this election in any other precinct, and that I am an actual and *bona fide* resident of — township. So help me God."

Qualification of electors.

Oath of electors.

SEC. 11. No registration shall be allowed on the day of election, but if any person shall give satisfactory evidence to the judges of the election that he has come of the age of twenty-one years on the day of the election, or has for any other reason, become on that day entitled to register, he shall be allowed to register and vote.

No registration on election day.

SEC. 12. On the day of election any elector may and it shall be the duty of the judges of election to challenge the vote of any person who may be known or suspected not to be a duly qualified voter.

When judges to challenge.

Oath of persons
challenged.

SEC. 13. When any person is so challenged, the judges shall explain to him the qualifications of an elector, and may examine him as to his qualifications, and if the person insists that he is qualified, and the challenge is not withdrawn, one of the judges shall tender to him the following oath: "You do solemnly swear (or affirm) that you are a citizen of the United States, that you are twenty-one years old, and that you have resided in this state for twelve months, and in this county for thirty days next preceding this election, and that you are not disqualified from voting by the constitution and laws of this state: that your name is (here insert the name given), and that in such name you were duly registered as a voter of this township, and that you are now actual resident of the same, and that you are the identical person you represent yourself to be, and that you have not voted in this election at this or any polling place. So help you God." And if he refuses to take such oath his vote shall be rejected; if, however, he does take the oath when tendered, his vote shall be received: *Provided*, That after such oath shall have been taken, the judges may, nevertheless, refuse to permit such person to vote if they be satisfied from record evidence or their own knowledge or other legal testimony adduced before them, that he is not a legal voter; and they are hereby authorized to administer the necessary oaths or affirmations to all witnesses brought before them to testify to the qualifications of a person offering to vote. Whenever any person's vote shall be received after having taken the oath prescribed in this section, it shall be the duty of the clerks of the election to write on the poll books, at the end of such person's name, the word "sworn." The same powers as to the administration of oaths and examination of witnesses as in this section granted to judges of elections, may be exercised by the registrars in all cases where the names of persons registered or offering to register are objected to.

When vote to be
rejected.

Challenge to be
recorded

Powers of Regis-
trars, etc.

When polls to be
opened.

SEC. 14. That the polls shall be opened on the day of election from seven o'clock in the morning until sunset of the same day; and each voter whose name may appear

registered, and who shall not be challenged and rejected, shall hand in his ballots to the judges who shall carefully deposit the ballots in the ballot boxes. Manner of voting.

SEC. 15. Immediately after any election the judges of election shall deposit the registration books for their respective precincts with the register of deeds of their respective counties. Registration Books to be deposited.

SEC. 16. The state officers, viz: governor, lieutenant governor, secretary of state, auditor, treasurer, superintendent of public instruction, superintendent of public works and attorney general shall be voted for on one ballot. The members of congress for their respective districts, shall be voted for on one ballot. The members of the general assembly for their respective counties and districts shall be voted for on one ballot. The county officers for the respective counties, viz: treasurer, register of deeds, surveyor, five commissioners, coroner and sheriff, shall be voted for on one ballot. The ballots shall be on white paper, and may be printed or written, or partly written and partly printed, and without device. Number of ballots and what to contain.

SEC. 17. The county commissioners, or, upon their failure, the inspectors of election, shall provide for each election precinct in their respective counties four ballot boxes, one for each class of officers to be voted for as prescribed in the preceding section, in which to deposit the ballots for such officers respectively. Each of said boxes shall have an opening through the lid of sufficient size to admit a single folded ballot and no more. The said ballot boxes shall be kept by the judges of election for the use of their several election precincts respectively. And said judges of election before the voting begins shall carefully examine the ballot boxes and see that there is nothing in them. Material, colors, &c. of ballot.

SEC. 18. When the election shall be finished the registrar and judges of election, in presence of such of the electors as may choose to attend, shall open the boxes and count the ballots, reading aloud the names of the persons who shall appear on each ticket; and if there shall be two or more tickets rolled up together or any ticket shall contain the To be without device.

Ballot boxes, how provided.

Description of boxes.

Who to keep them.

How boxes opened and ballots counted.

names of more persons than such elector has a right to vote for, or shall have a device upon it, in either of these cases such ticket or tickets shall not be numbered in taking the ballots, but shall be void, and the said counting of votes shall be continued without adjournment until completed and the result thereof declared.

What tickets to be void.

Returns from Precincts.
When, and to whom made.

SEC. 19. Returns from all the precincts shall be made by the judges of election by noon on Saturday ensuing the day of election to the county commissioners, who shall, in the presence of such persons as choose to attend, proceed to add the number of votes returned, and so far as county officers, members of the house of representatives and senators, where the senatorial district consists of but one county, are concerned, the person having the greatest number of votes shall be deemed duly elected, (should any two persons have an equal number of votes for the same office, the commissioners shall decide which of the two shall be elected.) And if for any cause the return of any precinct be not in by three o'clock p. m. on that day, then and in that case the commissioners shall adjourn without comparing the polls, to meet again on the following Tuesday at twelve o'clock m., when the polls of the various precincts of the county shall be compared, and the meantime they shall direct the sheriff or one of his deputies, to compel the attendance of the delinquent returning officer with the vote of his precinct. When the commissioners have thus completed the comparison of the polls they shall proclaim the result at the courthouse door, of the voting in their county for all the persons voted for and the number of votes cast for each, and shall immediately thereafter file with the register of deeds and with the sheriff of their county, or in case there be no sheriff, with the coroner, a certified statement of the same: *Provided*, The counties of Carteret, Hyde and Dare shall be allowed until Tuesday after the election to make their returns. The commissioners shall also file with the register of deeds the returns made by the judges of the election of each precinct.

Vote to be added publicly.

Who to be deemed elected.

Delinquents returning officers.

Statement of result filed with Register and Sheriff.

precinct returns to be filed.

SEC. 20. The sheriff or other returning officers in the various senatorial districts composed of more than one county, shall after receiving the returns as prescribed in the last section, meet on the second Thursday in August, one week after the election, at the following places in their respective districts for the purpose of comparing the polls: In first district, at Hertford, in the county of Perquimans. In the second district, at Plymouth, in the county of Washington. In the third district, at Roxabel, in the county of Bertie. In the seventh district, at Nashville, in the county of Nash. In the ninth district, at Pollocksville, in the county of Jones. In the eleventh district, at Kinston, in the county of Lenoir. In the tenth district, at Mt. Olive, in the county of Wayne. In the thirteenth district, at Northwest, in the county of Brunswick. In the fifteenth district, at Leesville, in the county of Robeson. In the sixteenth district, at Fayetteville, in the county of Cumberland. In the twentieth district, at Hillsboro', in the county of Orange. In the twenty-fourth district, at Gibsonville, in the county of Guilford. In the twenty-fifth district, at Brower's Mill, in the county of Randolph. In the twenty-sixth district, at John Webb's, on the Plank Road, in the county of Richmond. In the twenty-ninth district, at Lanesborough, in the county of Anson. In the twenty-eighth district, at Mount Pleasant, in the county of Cabarrus. In the thirtieth district, at the Foard's Mill, in the county of Rowan. In the thirty-second district, at Germantown, in the county of Stokes. In the thirty-third district, at Rockford, in the county of Surry. In the thirty-fourth district, at Taylorsville, in the county of Alexander. In the thirty-fifth district, at Jefferson, in the county of Ashe. In the thirty-sixth district, at Marion, in the county of McDowell. In the thirty-seventh district, at Early Grove, in the county of Catawba. In the thirty-eighth district, at Cherryville, in the county of Cleveland. In the thirty-ninth district, at Rutherfordton, in the county of Rutherford. In the fortieth district, at Asheville, in the county of Buncombe. In the forty-first district, at Brevard, in the county of Transylvania

Returning officers of senatorial districts, when and where to meet.

In the forty-second district, at Franklin, in the county of Macon. If for any cause any of said sheriffs or returning officers are prevented from meeting at said places respectively, on the aforesaid second Thursday in August, the returns of such officers shall be waited for and received if they arrive on the following day, and the returning officer failing to attend at the time and place required as aforesaid, shall forfeit and pay one thousand dollars, to be recovered in the superior court of his county by any person who may sue for the same, and moreover shall be guilty of misdemeanor; but if the returns of all the counties of the district be not in by Friday noon, then the returning officers shall adjourn from day to day until the returns from all the counties be received, and in the meantime, shall dispatch a competent person, under oath, to the county of the delinquent returning officer for a certified copy of the vote of that county, which shall be furnished by the register of deeds of said county, and when received shall be counted; and when the sheriffs shall be convened as aforesaid, the polls for the different counties shall by them, in the presence of one justice and five electors, to be summoned by the sheriff of the county where they shall meet, be examined and compared; a certificate, under the hands and seals of the returning sheriffs, shall be given to the candidate in each district for whom the greatest number of votes shall have been given; but if two or more candidates shall have an equal number of votes, the said officers shall determine which shall be a senator, and if no decision shall be made by them, they shall determine the same by lot.

SEC. 21. The sheriff or other returning officers of the counties of each congressional district, shall meet on the third Thursday of August, at the following places in the several districts for the purpose of comparing the polls for members of congress, namely: In the first district, at the courthouse in the town of Plymouth, in the county of Washington. In the second district, at the courthouse in the town of Goldsboro', in the county of Wayne. In the third district, at the courthouse in the town of Wilmington, in

When returning officers are prevented from meeting on designated day.

Penalty for failing to make returns.

Messenger to be sent to county of delinquent.

How such vote to be obtained.

Returns, how examined.

Declaration of result.

Comparison of polls for members of Congress.

Where and when returning officers to meet.

the county of New Hanover. In the fourth district, at the courthouse in the city of Raleigh, in the county of Wake. In the fifth district, at the courthouse in the city Greensboro', in the county of Guilford. In the sixth district, at the courthouse in the town of Wadesboro', in the county of Anson. In the seventh district, at the courthouse in the town of Wilkesboro', in the county of Wilkes. In the eighth district, at the courthouse in the town Asheville, in the county of Buncombe: *Provided, always,* That if any accident may prevent any returning officer from meeting on the day aforesaid, the return shall be received on the day following; and the returning officer failing to attend as required at the time and place above mentioned, shall forfeit and pay one thousand dollars, to be recovered for the use of the state, in any superior court of law, and shall be guilty of a misdemeanor; but if the returns from all the counties of the district be not in by Friday noon, then the returning officers present shall adjourn from day to day till the returns from all the counties are received, and in the meantime shall dispatch a competent person, under oath, to the county of the delinquent returning officer for a certified copy of the vote of that county, which shall be furnished by the register of deeds of said county, and when received shall be counted; and when the returning officers shall be convened, the poll for the several counties shall be examined and compared by them in the presence of a justice of the peace and ten electors, to be summoned by the returning officers of the county where they shall meet, and a certificate under the hands of said returning officers shall be given to the candidate for whom the greatest number of votes shall have been given in said district; but if two or more candidates shall have an equal number of votes, the returning officers shall determine which of them shall be representative, and if no decision is made by them, they shall determine it by lot.

Proviso.

Failure of returning officer to attend.

Penalty.

Messenger to be dispatched for returns.

Poll, how examined and result declared.

SEC. 22. The sheriff of each county shall furnish before the first Monday in September the member or members elected to the house of representatives and to the senate,

Certificate of election, when and how furnished.

where the district is not composed of more than one county, a certificate of election under his hand and seal; he shall also, at least ten days before the first day of September, notify all persons elected in the county to meet at the court house on the first Monday in September to be qualified. The commissioners elect shall be qualified before the clerk of the superior court by taking the several oaths of office, and shall thereupon organize by electing one of their number as chairman, and proceed to qualify the other officers elected in the county, and take the several bonds as prescribed by law.

Organization of county officers.

Bonds.

Return for State officers, when, by whom and how made.

SEC. 23. The sheriff or other returning officer of every county shall on or before the third Monday in November, one thousand eight hundred and seventy-two, transmit by mail or otherwise to the speaker of the house of representatives a separate statement of the votes taken in his county for each of the state officers, to wit: Governor, lieutenant governor, secretary of state, auditor, treasurer, superintendent of public instruction, superintendent of public works and attorney general, which statement, in each case, shall be in the following or some similar form, viz:

STATE OF NORTH CAROLINA.
 _____ COUNTY.

Certificate of Sheriff.

I, _____, sheriff of _____ county, do hereby certify that at the election held in said county to elect a governor (or other officers, as the case may be), for four years, from the first day of January next, at the places appointed by law for holding elections in said county on the _____ day of August, *anno domini* one thousand eight hundred and seventy-two, _____ votes were given for _____, and _____ votes for _____.

Given under my hand this _____ day of _____, 1872.

_____, Sheriff.

To whom statement to be sent.

If said statements are transmitted by mail they shall be directed in sealed packets to the speaker of the house of

representatives, in care of the secretary of state, and if by messenger, it shall be sent direct to the speaker of the house of representatives, sealed as aforesaid: *Provided*, That no messenger bringing said statements shall receive compensation therefor. Any sheriff or other returning officer failing or neglecting to perform the duties required in this section shall forfeit and pay two thousand dollars to be recovered in the superior court of his county by any person who shall sue for the same, and moreover, shall be guilty of a misdemeanor and upon conviction thereof, shall be imprisoned at hard labor in the state prison for twelve months.

Delinquent returning officers.

Penalty.

SEC. 24. The secretary of state shall cause proper forms of returns to be prepared and printed and send copies thereof with plain directions as to the manner of endorsing, directing and transmitting the same to the seat of government, to all the returning officers in the state, at least thirty-days before the time of holding said election.

Secretary of State to prepare and transmit forms of returns.

SEC. 25. The speaker of the house of representatives, in the presence of a majority of the members of both houses of the general assembly, shall open and publish the returns for governor, lieutenant governor, secretary of state, auditor, treasurer, superintendent of public instruction, superintendent of public works and attorney general, at twelve m., on the first Tuesday after the organization of both houses of the general assembly. And if for any cause there be no return from any county of the state, or if any return be defective, a proper return shall be had in such manner as the two houses in joint session may direct; and in either case the publication of the result may be postponed to such time as the joint session of the two houses may deem best. The person having the highest number of votes for each office respectively shall be declared duly elected thereto, but if two or more be equal and highest in votes for the same office, then one of them shall be chosen by joint ballot of both houses of the general assembly. Contested elections shall be determined by a joint vote of both houses of the general assembly in the same manner and under the same

Returns for State officers, how and by whom opened and published.

In case of defective returns.

Who to be declared elected.

In case of the vote.

Contested election.

rules and regulations as are prescribed in cases of contested elections of members of the general assembly.

Commissions of members of Congress.

SEC. 26. Every person duly elected a representative to congress, upon obtaining a certificate of his election as aforesaid, shall procure from the governor a commission, certifying his appointment as a representative of the state, which the governor shall issue on such certificate being produced.

Compensation of returning officers

SEC. 27. Every sheriff or other returning officer shall be allowed three dollars per day for the time actually employed and ten cents per mile for distance travelled for making the returns for senators and members of congress, and one dollar for each notice served upon the county officers elect, and one dollar for giving certificates to representatives to the general assembly, and to the senators whose district is a single county : all to be paid by the county treasurer upon the affidavit of the returning officer.

Of registrars.

SEC. 28. The registrar shall receive one cent for each name copied from the original registration book, and three cents for each new name registered.

Penalty for non performance of duty under this act

SEC. 29. Any registrar or judge or judges of election appointed under the provisions of this act, or any county commissioners, register of deeds, or sheriff failing or neglecting to make the returns and perform the duties required of him by this act, for the non-performance of which no penalty has been hereinbefore imposed, shall be fined not less than five hundred nor more than one thousand dollars, or imprisoned not more than six nor less than two months, at the discretion of the court.

For fraudulent registration or voting.

SEC. 30. Any person who shall with intent to commit a fraud, register or vote at more than one box or more than one time, or who shall induce another to do so, shall be guilty of a misdemeanor, and on conviction shall be imprisoned not less than six nor more than twelve months, or fined not less than one hundred nor more than five hundred dollars, at the discretion of the court; and any registrar or voters, or any clerk or copyist who shall make any entry or copy with intent to commit a fraud shall be liable to the same penalty.

Penalty.

SEC. 31. Any person who shall falsely and corruptly take the oath prescribed for voters in section ten or thirteen of this act, shall be deemed to be guilty of perjury, and upon conviction thereof shall be fined not less than five hundred nor more than one thousand dollars, and be imprisoned at hard labor in the penitentiary not less than two nor more than five years.

For falsely taking oath.

SEC. 32. The secretary of state shall, on or before the first Monday in June next, furnish the county commissioners of each county with a sufficient number of copies of this act to supply each county commissioner, register of deeds, sheriff, registrar of voters and judges of election with one copy thereof.

Secretary of State to furnish copies of this act.

SEC. 33. All acts or parts of acts inconsistent with this act, are hereby repealed.

Repealing clause,

SEC. 34. This act shall be in force from its ratification. Ratified the 10th day of February, A. D. 1872.

When act to be in force.

CHAPTER CLXXXVI.

AN ACT TO AMEND SECTIONS NINE, ELEVEN AND THIRTEEN, CHAPTER ONE HUNDRED AND EIGHTY-NINE, LAWS OF ONE THOUSAND EIGHT HUNDRED AND SEVENTY AND ONE THOUSAND EIGHT HUNDRED AND SEVENTY-ONE.

SECTION 1. *The General Assembly of North Carolina do enact*, That the following subdivisions and words be and the same are hereby added to sections *nine, eleven and thirteen*, laws of one thousand eight hundred and seventy and one thousand eight hundred and seventy-one, being an act entitled "An act in relation to the fees of county officers and the supreme court clerk."

Add after subdivision seventeen, section nine, as subdivision eighteen: "For examination of woman in case of bastardy, twenty-five cents: nineteen: for hearing petition for widow's years allowance, and issuing notice to freehol-

Amendment to fees.

ders, fifty cents; twenty: for filing and docketing laborer's lien, fifty cents."

SEC. 2. Add, after subdivision thirty-seven section eleven, as subdivision

Amendment to fees.

Thirty-eight: "Judgment on any question to be decided by him, if no appeal, fifty cents;

Thirty-nine: Notifying solicitor of removal of guardian, twenty-five cents;

Forty: Taking bond or undertaking of any kind, including justification, sixty cents;

Forty-one: Issuing writ of dower, possession, or similar process, seventy-five cents;

Forty-two: Receiving, filing and noting resignation of guardian, relinquishment of right of administrator or executor, ten cents;

Forty-three: Application for appointment of guardian, ten cents;

Forty-four: Recording reports, partition and widow's dower, for each copy sheet, ten cents;

Forty-five: For every jury inpaneled, ten cents;

Forty-six: Motion in arrest of judgment, ten cents;

Forty-seven: For every certificate, twenty-five cents."

SEC. 3. Add after section thirteen, the following words:

Amendment to fees.

"No witness summoned in a state case shall be allowed to prove attendance in more than one state case for any one day, but such witness being on attendance because of more than one state case, may select in which case or cases he will have his attendance taxed."

Amendment to fees.

SEC. 4. Amend by adding the following section: "No.—That in all state cases where there shall be a *nolle prosequi* entered or the defendant shall be acquitted or convicted, and be unable to pay the costs, and the court shall not order the prosecutor to pay the same, the county shall pay the clerks, sheriffs, constables and witnesses half their fees only, except in capital felonies and prosecutions for forgery, perjury and conspiracy, when they shall receive full fees."

When act to be in force.

SEC. 5. This act shall be in force from its ratification.

Ratified the 10th day of February, A. D. 1872.

CHAPTER CLXXXVII.

AN ACT TO AMEND CHAPTER TWO HUNDRED AND SIXTY-TWO OF THE PUBLIC LAWS OF ONE THOUSAND EIGHT HUNDRED AND SEVENTY AND ONE THOUSAND EIGHT HUNDRED AND SEVENTY-ONE.

SECTION 1. *The General Assembly of North Carolina do enact*, That section four of chapter two hundred and sixty-two, of public laws of one thousand eight hundred and seventy and one thousand eight hundred and seventy-one, entitled "An act to remove obstructions in the Pedee, Yadkin and Uwharrie rivers for the purpose of allowing shad and other fish free passage up said rivers," be amended by adding the following proviso: *Provided*, That any person may keep a dam on the said rivers except during the time between the fifteenth of February and the first of June of each year. Amendment.

SEC. 2. This act shall be in force from and after its ratification. When act to be in force.

Ratified the 10th day of February, A. D. 1872.

CHAPTER CLXXXVIII.

AN ACT TO RE-ENACT CHAPTER TWO HUNDRED AND SEVENTY-EIGHT LAWS OF ONE THOUSAND EIGHT HUNDRED AND SIXTY-EIGHT AND ONE THOUSAND EIGHT HUNDRED AND SIXTY-NINE, ENTITLED "AN ACT TO REVISE AND AMEND THE CHARTER OF THE TUCKASEGE AND NANTHALA TURNPIKE COMPANY," RATIFIED TWELFTH APRIL, ONE THOUSAND EIGHT HUNDRED AND SIXTY-NINE.

SECTION 1. *The General Assembly of North Carolina do enact*, That the provisions of chapter two hundred and seventy-eight, laws of one thousand eight hundred and Re-enactment.

sixty-eight and one thousand eight hundred and sixty-nine, ratified April twelfth, one thousand eight hundred and sixty-nine, entitled "An act to revise and amend the charter of the Tuckasege and Nantihala Turnpike Company," are hereby re-enacted in all things except the proviso to section two of said act, which is amended so as to read one year instead of three years.

Proviso.

Repealing clause. SEC. 2. That all laws in conflict with this act are hereby repealed.

When act to be in force. SEC. 3. That this act shall be in force from and after its ratification.

Ratified the 10th day of February, A. D. 1872.

CHAPTER CLXXXIX.

AN ACT TO CONSOLIDATE THE SCHOOL LAWS AND TO PROVIDE FOR A SYSTEM OF PUBLIC INSTRUCTION.

SECTION 1. *The General Assembly of North Carolina do enact*, That the state board of education shall meet at such times as a majority of the members may appoint: *Provided*, That the governor may call a meeting at any time.

Proviso.

School fund may be invested in U. S. bonds.

SEC. 2. The state board of education may, from time to time, as the same shall accumulate, invest the public school funds in United States bonds.

Auditor authorized to keep distinct account of public school funds.

SEC. 3. The state auditor shall keep a separate and distinct account of the public school funds, and of the interest and income thereof, also of such moneys as may be raised by state, county and capitation tax, or otherwise, for school purposes. He shall draw his warrants on the state treasurer in favor of any county treasurer whenever such county treasurer shall present an order from the state board of education.

Treasurer of Board.

SEC. 4. The state treasurer shall be the treasurer of the state board of education.

School funds paid out only on warrant of State Auditor.

SEC. 5. The state treasurer shall receive and hold as a special deposit all school funds paid into the treasury, and pay them out only on the warrant of the state auditor, issued

on the order of the state board of education, in favor of a county treasurer, which warrant, duly endorsed by the county treasurer in whose favor it is drawn, shall be the only valid voucher in the hands of the state treasurer for the disbursement of school funds.

COUNTY SCHOOL OFFICERS.

SEC. 6. The county commissioners of each county shall constitute a board of education for the county. The chairman of the county commissioners shall be the chairman, the register of deeds, the secretary, and the county treasurer, the treasurer of the county board of education.

Board of education.

SEC. 7. The county boards of education shall have supervision of the free schools in their respective counties, shall decide all controversies relating to the boundaries of school districts, or which may arise upon the construction of the school law, and shall see that the school law is enforced. An appeal, however, may be taken from any decision of a county board to the state board of education.

Free schools to be under the Supervision of County Boards of Education.

SEC. 8. The county treasurer of each county shall receive and disburse all public school funds. But before entering upon the duties of his office, he shall execute a bond with sufficient security in double the amount of money which may come into his possession during any year of his official term, for the faithful performance of his duties as treasurer of the county board education.

County Treasurer must give bond with security.

SEC. 9. The chairman and secretary of county board of education shall sign all orders upon the county treasurer for school money to which any person may be entitled under the provisions of this act, which orders, duly endorsed by the persons to whom the same are payable, shall be the only valid vouchers in the hands of county treasurers for disbursements of school money.

Orders must be signed by Chairman and Secretary of Board.

SEC. 10. The secretary shall record in a book to be kept for that purpose, all the proceedings of the county board of education, and issue all notices and orders pertaining to public schools, school houses, sites or school districts, which

Book of records to be kept by the Secretary.

notices and orders it shall be the duty of the sheriff to serve. He shall number all orders which he may sign on the county treasurer for school money, and shall keep an account in his books of the number, amount and date of each order and to whom it is payable. He shall file away in his office all catalogues of pupils and teachers, which may be sent to him by the teachers of any public school in the county, and shall enter upon his book of school statistics the abstract statement which may be sent to him by teachers of public schools in his county, showing the district in which the school is taught, the number of months it is taught, the name of the teacher, and the number and average attendance of pupils.

Books of statistics.

Secretary to send transcript of proceedings.

SEC. 11. In all cases in which an appeal may be taken from the decision of the county to the state board of education, it shall be the duty of the secretary to send up a transcript of the proceedings and evidence in the case, together with the written statements of the parties.

Biennial meetings of board.

SEC. 12. The county board of education of each county shall hold two regular meetings every year, on the second Mondays in March and September, for the purpose of looking after the interests of the public schools: *Provided*, That the chairman may call a meeting of the board at any time. At each regular meeting it shall be the duty of the board to examine the books and vouchers of the county treasurer and audit his account. Their report upon such examination shall be recorded by the secretary.

Proviso.

County Examiner.

SEC. 13. The county boards of education of the several counties, at the regular meetings in the month of March of every year, shall appoint a resident of the county of good moral character and suitable attainments, who shall be styled "The County Examiner," and shall hold his office one year and until his successor shall be appointed. If a vacancy should occur in the office of county examiner, the board may fill it at any time.

Duty of Examiner.

SEC. 14. The county examiner of each county shall examine all applicants for teachers' certificates at the courthouse of the county on the first Thursdays of January and July of every year, and continue the examination from day

to day during the remainder of the week, if necessary, till all applicants are examined. He shall grant certificates to all applicants of sufficient moral and mental qualification. If any person shall apply for an examination and certificate at any other time, the applicant shall pay the examiner a fee of one dollar. If the county examiner should become satisfied that any person to whom a teacher's certificate has been granted is guilty of any immoral or disreputable conduct, he shall revoke the certificate and give notice to the secretary of the county board of education.

Compensation.

Revocation of certificate.

SEC. 15. The county examiner shall deliver to the secretary of the county board of education, on or before the first day of October of every year, a catalogue of all the teachers to whom he gave certificates during the year, also an abstract statement of the number, race, and sex of the teachers. It shall be the duty of the secretary to file away the catalogue, and record the abstract statement. The examiner shall also state in writing the days he was employed in examining teachers.

Secretary must receive a catalogue of teachers.

SEC. 16. In each township there shall be biennially elected by the qualified voters thereof a school committee of three persons, whose duties shall be as prescribed in this act. If there should at any time be a failure to elect school committeemen in any township, or if a vacancy should at any time occur, it shall be the duty of the county board of education to appoint suitable residents of the townships, or fill the vacancy, as the case may be, and the persons thus appointed shall exercise all the powers and duties of a school committee until their successors are elected and qualified.

Biennial election in each township.

SEC. 17. The school committee of each township shall be a body corporate by the name and style of "The School Committee of Township _____, in the County of _____," as the case may be, and in that name shall be capable of purchasing and holding real and personal estate, and of selling and transferring the same for school purposes, and of prosecuting and defending suit for and against the corporation. All conveyances to school committees shall be to them and their successors in office.

Corporate body.

Corporate name.

Organization of school committee

SEC. 18. The school committee of each township, within fifteen days after their election or appointment, shall meet at some convenient point within the township, and organize by electing one of their number chairman, and another of their number clerk of the school committee.

School districts designated by number.

SEC. 19. The school committees of the several townships shall lay off their respective townships into convenient school districts, consulting as far as practical, the convenience of neighborhood and the wishes of persons interested, and disregarding the township boundaries where convenience requires it. They shall designate the districts by number: as School District, No. 1, School District, No. 2, &c., of Township ———, in the ——— of ———, as the case may be: *Provided*, That where a district lies partly in two or more townships, it shall be designated as School District, No. —, of the township in which the school house is situated.

Proviso.

School of races to be kept separate.

SEC. 20. The school committee shall consult the convenience of the white residents in settling the boundaries of districts for white schools, and of colored residents in settling the boundaries of districts for colored schools. The schools of the two races shall be separate; the districts may be the same or not, according to the convenience of the parties concerned. In cases where there are two sets of districts in a township, they shall be designated as School District, No. 1, 2, 3, &c., for white schools, or School District, No. 1, 2, 3, &c., for colored schools, as the case may be, of township ——— of ———, &c., as before stated.

Donation grants may be received for use of school.

SEC. 21. The school committee may receive any gift, grant, donation or devise made for the use of any school or schools within their jurisdiction, and in their corporate capacity they shall be and are hereby entrusted with the care and custody of all school houses, school house sites, grounds, books, apparatus or other public school property belonging to their respective jurisdictions, with full power to control the same as they may deem best for the interest of the public schools and the cause of education. When in the opinion of the committee any school house, school house

site or other public school property has become unnecessary for public school purposes, they may sell to the highest bidder and convey the same, after giving twenty days' notice by advertisement at three public places in the township. The deed for the property thus sold shall be executed by the chairman and clerk of the committee, and the proceeds of the sale shall be paid to the county treasurer for school expenses in the county.

School property not needed may be sold.

SEC. 22. The school committee may receive suitable sites for school house by donation or purchase. In the latter case they shall report the price to the chairman and secretary of the county board of education. If the latter are satisfied that the price is not excessive, they shall approve the order of the committee on the county treasurer, which said committee are hereby authorized to give for the purchase money in favor of the grantor of the land, and upon payment of the order, the title to said site shall vest in the committee and their successors in office. Whenever the committee are unable to obtain a suitable site for a school house by gift or purchase, they shall report to the county commissioners, and the latter shall thereupon appoint three disinterested citizens, who shall lay off not more than two acres, and assess the cash value thereof, and report their proceedings to the county commissioners. If said report is confirmed by the commissioners, the chairman and secretary of the board of education for the county shall approve the order which the township school committee shall give on the county treasurer, in favor of the owner of the land thus laid off, and upon payment, or offer of payment of this order, the title to said land shall vest in the school committee and their successors in office: *Provided*, That the improved land shall not be condemned under the provisions of this section: "*And provided further*, That any person aggrieved by the action of said commissioners may appeal to the superior court of the county in which said land is situate, upon giving bond to secure said commissioners against such costs as they may incur on account of said appeal not being prosecuted with effect.

Site for school house by donation or purchase.

Manner of payment.

Title vested in school committee

Proviso.

Further Proviso

Citizens building school houses may draw on Treasurer.

SEC. 23. If the citizens of any school district shall by subscription or otherwise, build and furnish a comfortable school house upon a site which belongs to the school committee, or shall repair and furnish a school house the title to which is vested in the school committee, it shall be the duty of the school committee to ascertain the net cost of such building or repairing and furnishing, and draw their order on the county treasurer for one-half of said net cost, in favor of such person as those who built or repaired and furnished the house may direct, which order the chairman and secretary of the county board of education shall approve, if they are satisfied that the estimate of the cost is fair and proper. Such orders as well as those for the purchase of sites for school houses shall be paid by the county treasurer out of the general school fund for the county.

Free schools.

SEC. 24. Every school to which aid shall be given under the provisions of this act shall be a free school, to which all children between the ages of six and twenty-one years shall be admitted free of any charge for tuition, subject to the restrictions contained in section twenty.

Limit and pay.

SEC. 25. For the support of each free school which shall be maintained for four months there shall be allowed out of the public school fund the sum of two dollars for each scholar, counting their number by the average attendance for four months; and for the support of each free school maintained for two months there shall be allowed one dollar for each scholar, counting their number by the average attendance for two months; and no aid shall be given from said fund for any school not maintained for at least two months.

Teachers association.

SEC. 26. If twenty or more teachers shall organize a teachers' association by meeting together and electing a president, vice president, secretary, treasurer, and a board of five directors, and shall furnish to the register of deeds of any county a report of the names of the teachers present, the officers, and the name of the association, and it shall be the duty of the register to record this report in the book of the school records of his county, and the association thus formed shall be a body politic and corporate in law, and in its

incorporate name may sue and be sued, receive, purchase, hold and transfer real and personal property for educational purposes.

SEC. 27. Every association which may be incorporated under the provisions of the preceding section, and shall hold a session of one month at any time during the year, for improvement in teaching at which there shall be an average attendance of twenty or more teachers, shall receive fifty dollars a year.

Session meeting.

Compensation.

SEC. 28. The school year shall begin January first and end December thirty-first.

School Term.

SEC. 29. Every teacher or principal of a school to which aid shall be given under the provisions of this act, shall keep a daily record of all absences of pupils, and of the grade in scholarship and deportment of each. The grades in scholarship shall be indicated by the numbers 1, 2, 3, 4 and 5; one representing the first or highest grade, and five the lowest, and the three intermediate numbers, the three intermediate grades. The grades in deportment shall be represented by the same numbers and in the same order.

Records of school kept by teacher.

Grades in scholarship.

At the end of every term of a two or four months school, and also on or before the first day of October of every year, every teacher of a free school shall deliver to the secretary of the county board of education, a catalogue of the pupils of the school, in which the average attendance, the scholarship, and the deportment of each pupil shall be shown, by three columns of numbers parallel to the column of names. He shall also give an abstract statement of the length of the term of the school, of the race, number, sex and average attendance of the pupils, also the township and district in which his school is situated.

Rules for teachers.

SEC. 30. At the middle and end of every two or four months' term of a free school, the teacher or principal of the school shall exhibit to the school committee of the township a statement of the number of pupils, their average attendance, the length of the term and the time taught. He shall also exhibit a teacher's certificate, dated within one year of the time. If the committee are satisfied that the provisions

Rules for free school teachers.

Certificate of
qualification.

of this act are complied with, they shall give an order on the county treasurer, payable to the teacher, for the sum due his school for the time taught. But they shall in no case give such order unless the teacher produce a certificate of mental and moral qualification from the county examiner, dated within one year of the time. The teacher shall present the order of the committee to the chairman and secretary of the county board of education. If they are satisfied that the provisions and intent of this act have been complied with, they shall approve the order. It shall then be paid by the county treasurer out of the school funds.

Application of
the school fund.

SEC. 31. It shall be the duty of the county treasurer of each county to apply the school funds which may come into his possession, under the provisions of this act, and seventy-five per cent. of the entire state and county poll taxes for the years one thousand eight hundred and seventy-one and one thousand eight hundred and seventy-two, which may not be paid out or due under the provisions of the former school law, within thirty days after the ratification of this act, in payment of all orders for school money in the order in which they may be presented.

Treasurer to
make statements
of amount of or-
ders for school
money.

SEC. 32. It shall be the duty of the county treasurer on or before the thirty-first day of December of each year to make out a statement of the entire amount of orders for school money presented to him during the year, and the amount paid out of the county school funds, which statement must be approved by the chairman and secretary of the county board of education. It shall also be the duty of the state board of education at the expiration of thirty days after the ratification of this act, to order, upon the requisition of each county treasurer, approved by the chairman and secretary of the county board of education, a warrant upon the treasurer of the state board of education for any balance of the apportionments of one thousand eight hundred and sixty-nine, one thousand eight hundred and seventy and one thousand eight hundred and seventy-one, which may be due the county.

Duty of State
Board.

SEC. 33. It shall be the duty of all teachers of free public schools to maintain good order and discipline in their respective schools, to encourage morality, industry and neatness in all their pupils, and to teach thoroughly all branches which they profess to teach. If any pupil should wilfully and persistently violate the rules of school, such pupil may be dismissed by the teacher for the remainder of the current term.

Duty of free school teachers.

SEC. 34. The state board of education may recommend the course of study to be pursued, the text books and other means of instruction to be used in the free public schools: *Provided*, That no sectarian or political text books or influences shall be used in any free public school.

Course of study recommended.

Proviso.

SEC. 35. The superintendent of public instruction shall have the school laws of the state published in pamphlet form and distributed to all school officers in the state; shall have printed all forms necessary and proper for the purposes of this act, and shall look after the school interests of the state at large, and report to the governor of the state on or before the third Monday of November of every year, which report shall give information and statistics of the free schools, and recommend such improvements in the school law as may occur to him. He shall keep his office at the seat of government, and shall sign all requisitions on the auditor for the payment of money out of the state treasury for school purposes, copies of his acts and decisions, and of all papers kept in his office and authenticated by his signature and official seal, shall be of the same force and validity as the original. He shall be furnished with such room, fuel and stationery as shall be necessary for the efficient discharge of the duties of his office as heretofore.

Publication of school laws.

Office of Superintendent.

SEC. 36. All state and county capitation taxes which shall be levied and collected for school purposes under the constitution, and all the tax levied and collected under the act, shall be paid to the county treasurer of the counties respectively in which the same are collected, and shall constitute a revenue and fund for the support of public schools in said counties respectively, and shall not be used for any

Taxation to constitute a revenue.

other purpose. The sheriff or other person collecting such taxes shall take the receipts of the county treasurer for such payments in duplicate, one copy of which he shall transmit to the auditor of the state. The county commissioners shall, from time to time if necessary, require the county treasurer to give sufficient and good security, by additional bond or bonds, so as to secure the faithful administration of the school funds; and in default so to do, the said commissioners shall be guilty of a misdemeanor, and upon conviction before the superior court, shall be fined not less than three hundred dollars nor more than one thousand.

Misdemeanor.

School funds not used one year to be added to the fund of the next year.

SEC. 37. All school funds which shall not be required to pay the school orders of one thousand eight hundred and seventy-two, shall be added to the school fund "of the counties" for one thousand eight hundred and seventy-three. And the school funds for any year which may not be required for the school expenses of that year, shall be added to the school fund of the following year.

Property taxed for raising funds.

SEC. 38. For raising an additional school fund for the year one thousand eight hundred and seventy-two, six and two-third cents on the hundred dollars, shall be and is hereby levied upon all the taxable property and credits in the state, which shall be collected by the sheriffs of the several counties in the state and paid to the county treasurer at the same time, and under the same rules, regulations and penalties provided for the collection and payment of other county taxes. There shall also be levied and collected on each poll twenty cents special tax: *Provided*, That it shall not be lawful for the county commissioners of any county to levy an additional tax for free school purposes.

Poll tax.

Proviso.

Statistical reports of free schools.

SEC. 39. It shall be the duty of the secretary of the county board of education for each county to report to the superintendent of public instruction on or before the fifteenth day of October of every year, full and accurate statistics, showing the number of free schools in the county, the length of the term of each, the race, sex, number, and average attendance of pupils, as reported to him under the provisions of the twenty-ninth section of this act, and the race, sex and number of teachers

as reported to him under the provisions of the fifteenth section of this act. And also the number of school children in the county, as reported to the county board of education under the provisions of section forty-seven of this act. And if any secretary of a county board of education shall fail to comply with the provisions of this section at the time above stated, he shall be guilty of a misdemeanor, and upon conviction thereof, in the superior court of his county; he shall be fined not less than fifty dollars and not more than two hundred dollars.

Penalty.

SEC. 40. The county treasurer of each county shall receive such commissions as are now allowed by section two, chapter one hundred and thirty-nine, acts of one thousand eight hundred and seventy and one thousand eight hundred and seventy-one, on the entire amount of school funds which may pass through his hands each year, but he shall state the amount of his commissions in his annual statement to the secretary of the state board of education, as provided for in the thirty-second section of this act. The secretary of each county board of education shall receive such compensation for his services as may be allowed by the county commissioners, which shall be paid out of the general county fund, and not out of the school fund.

Treasurer may receive commissions.

SEC. 41. The school committees, shall be exempt from military duty, from working the public roads and from serving on juries, and shall receive no other compensation for their services. Before entering upon the duties of their office, they shall take an oath before a justice of the peace for the faithful discharge of the duties of that office. If any person who may be elected or appointed school committeeman should fail to qualify and discharge the duties of his office, he shall forfeit and pay ten dollars to the chairman of the county commissioners, which it is hereby made his duty to collect and pay to the county treasurer for the benefit and use of free schools.

Exemption from military duty, &c.

Oath administered.

SEC. 42. The share of the public school fund arising from the increase thereof by investment or otherwise to which each county may be entitled, shall be paid to the county

Share of Public school fund must be treasurer.

treasurer, or his lawful attorney, upon the order of the board of education and the warrant of the auditor, and in like manner shall all payments from the public school fund be made.

Appointment of school funds.

SEC. 43. It shall be the duty of the state board of education, on the first day of January of every year, to apportion among the several counties of the state all the school funds which may then be in the treasury of the state board of education, and order a warrant for the full apportionment to each county, upon the requisition of each county treasurer, approved by the chairman and secretary of the county board of education.

Report of Teacher's association.

SEC. 44. Every teachers' association which shall hold an annual meeting under the provisions of section twenty-seven of this act, shall report to the superintendent of public instruction on or before the fifteenth day of October of each year, the names of the association and officers, the time and place of the annual meeting and the mode of instruction therein. If the superintendent of public instruction shall be satisfied that the provisions and intent of the said twenty-seventh section have been complied with, he shall draw an order payable to the treasurer of said association on the treasurer of any county which may be designated in said report, which order the chairman and secretary of said county shall sign. Said order shall then be paid by the treasurer of said county out of the school fund.

Compensation for examiner

SEC. 45. Every county examiner who shall comply with the provisions of this act shall receive as a compensation for his services, two dollars a day for every day he may be actually engaged in the examination of teachers at the times mentioned in the fourteenth section of this act. It shall be the duty of the chairman and secretary of each county board of education to draw an order on the county treasurer for the amount due each county examiner by virtue of this section, payable to said county examiner. This order shall be paid by the county treasurer out of the school fund.

willful disturbance a misdemeanor.

SEC. 46. Every person who shall willfully interrupt or disturb any public or private school, or any meeting lawfully and peaceably held for the purpose of literary or scientific

improvement, either within or without the place where such school or meeting is held, or injure any school building, or deface any school furniture, apparatus or other school property, shall be guilty of a misdemeanor, and on conviction thereof shall be fined not exceeding one hundred dollars, at the discretion of the court. Penalty.

SEC. 47. That it shall be the duty of the clerk of the township board of trustees in any county, at the same time when the taxes of said county are listed, to take and return to the county board of education on or before the fifteenth day of April of each year, a full and accurate census of the children between the ages of six and twenty-one: *Provided*, That the clerk of each township shall be allowed five dollars for taking a full and accurate census of all the persons in the township entitled to the benefits of this act. Census to be taken.
Proviso.

SEC. 48. Chapter one hundred and eighty-four of the laws of one thousand eight hundred and sixty-eight and one thousand eight hundred and sixty nine, and chapter two hundred and thirty-seven of the laws of one thousand eight hundred and seventy and one thousand eight hundred and seventy-one, and all other laws inconsistent with the provisions of this act are hereby repealed, and this act shall take effect from and after its ratification. Repealing clause.
When act to take effect.

Batified the 12th day of February, A. D. 1872.

CHAPTER CXC.

AN ACT TO AUTHORIZE R. F. TROGDEN, THE PRESENT SHERIFF
OF RANDOLPH COUNTY, TO COLLECT ARREARS OF TAXES.

SECTION 1. *The General Assembly of North Carolina do enact.* That R. F. Trogden, the present sheriff of Randolph county, be and he is hereby authorized and empowered to collect all arrears of taxes due him for the year one thousand eight hundred and seventy-one, which collection shall be Arrears of taxes to be collected.

made under the rules, regulations and restrictions as other collections of taxes are by virtue of the laws of this state.

Expiration of term.

SEC. 2. That the power and authority hereby granted shall cease and terminate January first, one thousand eight hundred and seventy-three: *Provided*, That no person shall be compelled to pay such taxes who will make oath before a justice of the peace, that he has paid said tax and lost the receipt for the same.

Proviso.

When act to take effect.

SEC. 3. This act shall be in force from and after its ratification.

Ratified the 12th day of February, A. D. 1872.

CHAPTER CXCI.

AN ACT TO AMEND CHAPTER ONE HUNDRED AND THIRTY-SEVEN, LAWS OF ONE THOUSAND EIGHT HUNDRED AND SIXTY-NINE AND ONE THOUSAND EIGHT HUNDRED AND SEVENTY, ENTITLED "AN ACT TO PROVIDE DRAINING WET LANDS."

Amendment.

SECTION 1. *The General Assembly of North Carolina do enact*, That section twelve of the above named chapter one hundred and thirty-seven, be amended by adding thereto the following: *Provided, also*, That every person who shall take the benefit of this section and shall construct a ditch through his lands to communicate with a ditch upon the lands of another, as aforesaid, or shall widen, deepen or enlarge the capacity of an old ditch, shall also, under the same penalties and forfeitures for failure or refusal, be required to keep such new ditch or such widened, deepened, or enlarged ditch as the case may be, opened and cleaned out from end to end, and to erect such dikes as shall be necessary to prevent injury to the ditch or ditches below by the overflow of sand, water or other earth or debris.

Proviso.

Drainage of ditches an obligation.

SEC. 2. This act shall be in force from and after its ratification.

Ratified the 12th day of February, A. D. 1872.

CHAPTER CXCII.

AN ACT TO INCORPORATE THE YADKIN RIVER NAVIGATION
COMPANY.

SECTION 1. *The General Assembly of North Carolina do enact*, That for the purpose of improving the navigation of the Yadkin river, above the point where the North Carolina Railroad passes over said river, the formation of a corporate company with a capital stock of one hundred thousand dollars is hereby authorized, to be called the Yadkin River Navigation Company, and when formed in compliance with the conditions hereinafter prescribed, to have a corporate existence as a body politic for fifty years.

SEC. 2. That the capital stock of said corporation shall be divided into shares of fifty dollars each; and when as much as twenty thousand dollars of stock is taken by solvent subscribers, and five per cent of such subscriptions actually paid in, a meeting of the subscribers shall be called by the commissioners hereinafter appointed, at some time and place to be designated by them, or a majority of them, at which meeting said corporation may proceed to organize by the election of six directors, and the said directors shall choose one of their number as president, and may also elect such other officers as may be needful and may be prescribed by the by-laws of the corporation; and regular annual meetings of the stockholders may be held thereafter, at such places and time of year as they may fix upon, at which annual meetings elections for officers of said company shall take place in the manner above prescribed, but if from any cause any annual meeting be not held, all officers shall hold over till the next annual meeting; and a majority of the stock must be represented in person or by proxy to constitute a quorum at any meeting of stockholders.

SEC. 3. That for the purpose of procuring subscription to the capital stock of said corporation, Lewis Zimmer, J. R. Hamblinton, Frank Wagner, of Wagner; Huges and

Formation of company.

Capital stock.

Corporate name.

Term of time.

Division of stock.

Directors and president elected.

Meeting of stockholders to be held annually.

Majority of stock to form a quorum.

Commissioners appointed.

Co., Charleston; Stephen R. Clarke, John S. Henderson, Archibald H. Boyden, are hereby appointed commissioners with powers to open books of subscription at such times and places, and under the direction of such persons as they or a majority of them may deem proper; and they shall organize by designating from among their number a chairman, a treasurer and other needful officers, and have power to require a suitable bond of their treasurer for faithfully accounting for any moneys that may come into his hands; and they may bring suit in the name of their treasurer against any subscriber and recover the five per cent of his subscription, if such subscriber has failed to pay in so much upon his said subscription; that their powers herein conferred shall, except as to any such suits then pending, cease upon the organization of the company, and they shall turn over to the treasurer of the company any subscriptions, moneys and obligations that may be or come into their possession; and when twenty thousand dollars of capital stock shall be subscribed, as aforesaid, and five per cent. thereof paid in or collected, it shall be the duty of said commissioners without delay to call a meeting of the stockholders, or more than one if the first for any cause shall fail to be held, that the said company may be organized as aforesaid: *Provided, however,* That if said company shall fail to be organized within two years from this date, all the rights and privileges granted by this act shall be forfeited.

SEC. 4. That said company shall proceed to make improvement on the Yadkin river so as to render said river navigable for steam barges and other craft, beginning with said work at that point where the North Carolina Railroad crosses said river, and proceeding to improve from thence up said river as far as the town of Wilkesboro', and the authority and privileges to improve and to use the said river hereby granted to said company, shall extend from the town of Wilkesboro' to the North Carolina Railroad bridge; and so soon as any portion of said river shall be in a condition to be used for the transportation of persons or property by steam vessels or batteau, the company shall have the exclusive right of navi-

Organization of company.

Treasurer to give bond with security.

Suit may be brought against subscribers failing to pay percentage.

Meeting of stock holders.

Proviso.

River to be rendered navigable for Steam Vessels.

Improvement where to begin and end.

gation on said river with such boats, and shall be entitled to charge for their services in the transportation of persons and property, at such rates as not to exceed twenty-five per cent. on their capital in any one year.

Company to have exclusive right of navigation. Changes of transportation.

SEC. 5. That said company shall have the privilege of throwing a boom across the Yadkin river at any point they may think proper above the North Carolina Railroad bridge, for the purpose of catching up timber, either in logs, rafts or other dimensions, and they are hereby authorized to charge toll on all such timbers as may be floated down to their said boom for the purpose of being put in the market for sale; all such tolls when collected to be exclusively used, under the direction of the president and directors of said company, for the improvement of the navigation of said river.

Boom may be thrown across river.

Toll paid for floating timber.

SEC. 6. It shall be the duty of the president of said company, on or before the first day of August in each year, to make a report to the governor of the state of the progress made by said company, amounts of toll collected, how, when and where expended, amounts of freight rafted, floated or shipped under the supervision of the company, the income of said company and its general financial condition.

Duty of president :

SEC. 7. That the president and directors of said company, 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 works and to lay out the same according to their pleasure, and they shall have power to enter upon and lay out such contiguous land as they may desire to occupy as sites for depots, storehouses, warehouses, tollhouses and other buildings for the necessary accommodation of their officers, agents and servants, their horses, mules and cattle, and for the protection of the property of the company: *Provided, however,* That the land so laid out for these latter purposes shall not exceed two acres in any one parcel.

Right of company to enter open lands, &c. for construction of all necessary works.

Proviso.

SEC. 8. That if the president and directors of said company cannot agree with the owner or owners of the land entered upon and laid out by them, as to the terms of the purchase, said president and directors or the owner may

Assessment of damage.

apply in writing to the clerk of the superior court of the county wherein said land or a part of it may be situated, to cause the damages to be assessed by five referees, entirely disinterested, directly or indirectly, two of said referees to be appointed by each party respectively, and the fifth by the said clerk, five days' notice of the application being given to the other party; and if either party fail to appoint two referees at the expiration of said five days' notice, the clerk shall appoint them. The clerk shall issue notice to all the referees to attend on the land upon a day fixed; and any one or more of them attending on that day may adjourn from time to time, until the business shall be finished, and of the five referees, 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 ascertain the damages which will be sustained by the proprietor of the land, from the condemnation thereof; and they shall assess the damages to said property, and return in writing and under oath their award to the said clerk within ten days after it is made, and the same, when filed, shall be recorded as a regular judgment of the superior court, on which execution may issue, returnable to the next term of the court. Either party dissatisfied with the award may, within five days after its filing with the clerk, upon giving an appeal bond, covering costs and damages, in a sum to be fixed by the clerk, appeal to the superior court, and that court shall try the whole case *de novo*; but if the said award shall be disaffirmed, or if the said referees being unable to agree should report their disagreement, or for any other cause they should fail to report within the time above prescribed, the clerk of said court may supercede them, and others may be appointed in their stead, as in the first instance. After judgment has been obtained and execution has issued against said company for the amount of damages so assessed, and when said judgment shall be paid and discharged, the title of the land for which such damages have been assessed, shall be vested in said company in the same manner as if the proprietors had sold and conveyed it to them; and the said

Appointment of referees.

Notice of application.

Clerk to notify referees.

Duty of referees.

Return of award in a specified time.

Appeal can be made to Superior Court.

Referees failing to report, Clerk of court may supercede them.

Title of the land to be vested in the Company.

clerk shall then order the report of the referees to be registered in his county, and the same shall be read in evidence in case of registered deeds for the conveyance of land.

Report to be registered.

SEC. 9. That the said president and directors, for the purpose of constructing their works necessary to the improvement of said river, or of repairing the same, shall be at liberty, by themselves or agents, at any time, to enter upon any adjacent land and to cut, quarry, take and carry away therefrom any wood, stone, gravel, or earth, which they may deem necessary: *Provided, however,* That they shall not, without the consent of the owner, cut down any fruit tree or any tree preserved in any lot or field for shade or ornament, nor take any timber, gravel, or stone, constituting any part of any fence or buildings, and for all such wood, stone, gravel and earth thus taken, the said president and directors shall pay to the owner or owners thereof, a reasonable compensation to be by them agreed upon, and in case of their failure to agree upon the value of said articles, then the same shall be valued by three freeholders appointed by any justice of the peace of the county where such stone, &c., may be situated, on the application of the owner thereof, after previous notice of ten days to the other party, and in case the other party shall be dissatisfied with their determination an appeal shall be allowed and sent up by said justice to the superior court of said county, and then to be tried and determined, as in other cases of appeals to the superior court.

Liberty granted to officers of company.

Proviso.

Compensation.

Violation by freeholders.

Appeal allowable.

SEC. 10. That the president and directors of said company shall cause the works hereby required to be executed with diligence, and if be not commenced within three years and completed within fifteen years after the passage of this act in so far as the said president and directors shall deem the same practicable, then this charter shall be forfeited.

Limitation as to time.

SEC. 11. That this act shall be in force from and after its ratification.

When act to take effect.

Ratified the 12th day of February, A. D. 1872.

CHAPTER CXCIII.

AN ACT CONCERNING MARRIAGES, MARRIAGE SETTLEMENTS AND
THE CONTRACTS OF MARRIED WOMEN.SECTION 1. *Who may contract a marriage :*

Marriageable ages

The General Assembly of North Carolina do enact, All unmarried male persons of sixteen years, or upwards, of age, and all unmarried females of fourteen years, or upwards, of age, may lawfully marry, except as hereinafter forbidden. (Revised Code, chapter sixty-eight, section fourteen.)

SEC. 2. *Who may not :*When marriages
are void.

All marriages between a white person and a negro or Indian, or between a white person and a person of negro or Indian descent, to the third generation inclusive, or between any two persons nearer of kin than first cousins, or between a male person under sixteen years of age and any female, or between a female person under fourteen years of age and any male, or between persons either of whom has a husband or wife living at the time of such marriage, or between persons either of whom is at the time thereof physically impotent, or is incapable of contracting from want of will or understanding, shall be void: *Provided*, That no marriage followed by cohabitation and the birth of issue shall be declared void after the death of either of the parties for any of the causes stated in this section, except for that one of the parties was a white person and the other a negro or Indian, or of negro or Indian descent to the third generation inclusive, and for bigamy. (Id. s. 7, 8, 9.)

Proviso.

SEC. 3. *What necessary to a valid marriage :*Validity of mar-
riage.

The consent of a male and female person who may lawfully marry, presently to take each other as husband and wife, freely, seriously and plainly expressed by each in the presence of the other, and in the presence of an ordained minister of any religious denomination, or of a justice of

the peace, and the consequent declaration by such minister or officer that such persons are man and wife, shall be a valid and sufficient marriage: *Provided*, That the law as now existing, chapter sixty-eight, section three, revised code of North Carolina, allowing marriages among the society of friends according to a form and custom peculiar to themselves, shall not be repealed or interfered with by the provisions of this or any other section of this act.

Proviso.

SEC. 4. *Ministers, &c., not to celebrate marriage unless a license be delivered :*

No minister or officer mentioned in the next preceding section shall perform a ceremony of marriage between any two persons, or shall declare them to be man and wife, until there shall be delivered to him a license for the marriage of the said persons, signed by the register of deeds of the county in which the marriage is intended to take place, or by his lawful deputy.

License required.

Register of Deeds may sign license.

SEC. 5. *License, when to be issued by register of deeds :*

Every register of deeds shall, upon application, issue a license for the marriage of any two persons: *Provided*, It shall appear probable to him that there is no legal impediment to such marriage: *Provided, nevertheless*, That where either parties to the proposed marriage shall be under eighteen years of age, and shall reside with the father, or mother, or uncle or aunt, or brother, or elder sister, or shall reside at a school or be an orphan, and reside with a guardian, the register shall not issue a license for such marriage until the consent in writing of the relation with whom such infant resides, or if he or she resides at a school, if the person by whom said infant was placed at school, and under whose custody and control he or she is, shall be delivered to him, and such written consent shall be filed by and preserved the register.

Licenses granted when no legal impediment is in the way.

Proviso.

Consent of relation in writing necessary for issuing license.

SEC. 6. *Form of license :*

License shall be in the following or some equivalent form: "To any ordained minister of any religious denomi-

Particulars of form.

Particulars of
form.

nation, or to any justice of the peace, for ——— county.”

A. B. having applied to me for a license for the marriage of C. D., (the name of the man to be written in full) of (here state his residence,) aged ——— years, (color as the case may be) the son of (here state the father and mother, if known, state whether they are living or dead, and their residence, if known; if any of these facts are not known, so state”) and E. F. (write the name of the woman in full) of (here state her residence) aged (here state the number of) years, color (as the case may be) the daughter of (here state the names and residence of the parents, if known, as is required above with respect to the man.) If either of the parties shall be under eighteen years of age, the license shall here contain the following: “And the written consent of G. H., father (or mother, &c., as the case may be) to the proposed marriage having been filed with me”) and there being no legal impediment to such marriage known to me, you are hereby authorized, at any time within one year from the date thereof, to celebrate the proposed marriage at any place within the said county. You are required within two months after you shall have celebrated such marriage, to return this license to me, at my office, with your signature subscribed to the certificate under this license, and with the blanks therein filled according to the facts, under penalty of forfeiting two hundred dollars to the use of any person who shall sue for the same. Issued this ——— day of ———, 187—.

Penalty.

L. M.

Register of Deeds for ——— County.

Certificate of
marriage.

Certificate to be filled up and signed by the minister or officer celebrating the marriage, and also to be signed by one or more witnesses present at the marriage, who will add to their names their places of residence: “I, N. O., an ordained minister of (here state to what religious denomination, or justice of the peace as the case may be) united in matrimony (here name the parties,) the parties licensed above on the ——— day of ——— 187—, at the house of P. R., in-

(here name the town, if any, the township and county) according to law.

N. O.

Witnesses present at the marriage :

S. T. of (here give the residence.)

SEC. 7. *Penalty on register for issuing license unlawfully :*

Every register of deeds who shall knowingly or without reasonable inquiry issue a license for the marriage of any two persons to which there is any lawful impediment, or where either of the persons is under the age of eighteen years, without the consent required by section five of this act, shall forfeit and pay two hundred dollars to any person who shall sue for the same.

Marriage licenses unlawfully issued considered a penalty.

SEC. 8. *Penalty on minister or officer marrying without a license :*

Every minister or officer mentioned in section three of this act, who shall marry any couple without a license being first delivered to him, as required by this act, or after the expiration of such license, or who shall fail to return such license to the register of deeds within two months after any marriage celebrated by virtue thereof, with the certificate appended thereto duly filled up and signed, shall forfeit and pay two hundred dollars to any person who shall sue therefor, and shall also be deemed guilty of a misdemeanor.

Penalty on Minister or officer marrying without license.

SEC. 9. *Register of deeds to keep a book of marriages :*

Every register of deeds shall keep a book (which shall be furnished on demand by the county commissioners of his county) on the first page of which shall be written or printed : "Record of marriage licenses and of the returns thereto, for the county of —, from the — day of —, 18—, to the — day of —, 18—, both inclusive." In said book shall be entered, alphabetically, according to the names of the proposed husbands, the substance of each marriage license and of the return thereupon, as follows : The book shall be divided by lines with columns which shall be prop-

Register of deeds required to record marriages.

Manner of recording marriage

erly headed, and in the first of these, beginning on the left, shall be put the date of issue of the license; in the second, the name in full of the intended husband, with his residence; in the third, his age; in the fourth, his color; in the fifth, the name in full of the intended wife, with her residence; in the sixth, her age; in the seventh, her color; in the eighth, the name and title of the minister or officer who celebrated the marriage; in the ninth the day of the celebration; in the tenth, the place of the celebration; in the eleventh, the names of all or at least three of the witnesses who signed the return as present at the celebration. The original license and return thereto, shall be filed and preserved.

SEC. 10. *Penalty on register for failure to record license and return:*

Failure to record a penalty.

Any register of deeds who shall fail to record, in the manner above prescribed, the substance of any marriage license issued by him, or who shall fail to record, in the manner above prescribed, the substance of any return made thereon, within ten days after such return made, shall forfeit and pay two hundred dollars to any person who shall sue for the same.

SEC. 11. *Marriage settlements void as to existing creditors:*

When contracts or settlements are void.

Every contract and settlement of property made by any man and woman, in consideration of a marriage between them, for the benefit of such man or woman, or of their issue, whether the same be made before or after the marriage, shall be void as against creditors of the parties making the same respectively, existing at the time of such marriage, if the same is ante-nuptial, or at the time of making such contract or settlement, if the same is post-nuptial.

SEC. 12. *Marriage settlements void except from registration:*

Registration an exception.

Every such contract and settlement of property shall be void as against the creditors of or purchasers from the hus-

band and wife respectively, as to any lands, tenements or hereditaments, and chattels real, conveyed or agreed to be conveyed thereby, except from the registration thereof in the county in which such lands, tenements and hereditaments or chattels real lie, and as to any personal property conveyed or agreed to be conveyed thereby, except from the registration in the county in which such husband and wife at the marriage, or at the making thereof, if after the marriage, shall reside.

EFFECT OF MARRIAGE UPON THE LIABILITY OF THE HUSBAND AND WIFE UPON HER CONTRACTS BEFORE MARRIAGE.

SEC. 13. *Husband does not become liable :*

No man by marriage shall incur any liability for any debts owing, or contracts made, or for wrongs done by his wife before the marriage.

When husband not liable.

SEC. 14. *The liability of the wife continues :*

The liability of a *feme sole* for any debts owing, or contracts made, or damages incurred by her before her marriage shall not be impaired or altered by such marriage.

Wife's debts incurred before marriage to continue.

SEC. 15. *In actions against wife, copy of summons to be served on husband :*

In all actions brought against a married woman who is not a free trader, (as hereinafter provided for,) a copy of the summons shall be served upon the husband also, and on the motion to the court in which the action is pending, he may be allowed, with her consent, to defend the same in her name and behalf, but no judgment shall be given against him, upon any liability claimed against her arising before the marriage or upon any contract made by her alone after her marriage.

Summons of wife to be served on husband.

Judgement not rendered against husband.

SEC. 16. *Husband may be ordered to pay costs or discharged from defence :*

Whenever any husband shall be allowed to defend for his wife, he may be ordered to pay costs for any misconduct,

Husband may be discharged from defence.

and may be discharged from the conduct of her defence, if it shall appear to the court, that his defence is not *bona fide* in her interest.

WHAT CONTRACTS A MARRIED WOMAN MAY MAKE WITH STRANGERS.

SEC. 17. *Not capable of contracting without her husband, unless a free trader :*

Husband's written consent necessary for wife to make certain contracts.

No woman during her coverture shall be capable of making any contract to effect her real or personal estate, except for her necessary personal expenses, or for the support of the family, or such as may be necessary in order to pay her debts existing before marriage, without the written consent of her husband, unless she be a free trader, as hereinafter allowed.

SEC. 18. *A married woman may become a free trader :*

Qualification for becoming a free trader.

Every married woman of the age of twenty-one years or upwards, with the consent of her husband, may become a free trader in the manner following :

SEC. 19. *How :*

First : By ante-nuptial contract, proved and registered as hereinafter required ; or,

Secondly : She and her husband shall sign a writing in the following or some equivalent form :

Written form of free traders.

“ A. B., of the age of twenty-one years or upwards, wife of C. D., of —— county, with his consent, testified by his signature hereto, enters herself as a free trader from the date of the registration hereof.

(Signed)

A. B.,

C. D.

Witness : E. F.

Registered this —— day of ——, 187—.

The said writing may be proved by the subscribing witness, or acknowledged by the parties before any officer

authorized to take the probate of deeds, and shall be filed and registered in the office of the register of deeds for the county in which the woman proposes to have her principal or only place of business.

SEC. 20. *A free trader from date of registration :*

From the time of the registration of the writing mentioned in the next preceding section, the married woman therein mentioned, shall be a free trader, and authorized to contract and deal, as if she were a *feme sole*.

Wife a free trader from date of registration.

SEC. 21. *Copy from register's books evidence :*

A copy of such writing, duly proved and registered, and certified by the register of the county in which the same is registered, shall be admissible in evidence as certified copies of registered deeds are, or may be allowed to be.

Evidence given.

SEC. 22. *How she may cease to be a free trader :*

The right of a married woman to act as a free trader may be ended at any time by an entry by her, or by her attorney, in the margin of the registration of the writing above mentioned, to the effect that from the date of such marginal entry, she ceases so to act, and by publication to that effect weekly, for three weeks, in some newspaper published in the county in which she had her principal or only place of business, or if there shall be none so published, then in any other convenient newspaper. But such entry and publication shall not impair any liabilities incurred previously thereto, nor prevent such married woman from becoming liable afterwards to any person whom she may fraudulently induce to deal with her as a free trader.

Wife may cease to be a free trader by making marginal entry on the register book.

Public notification given.

SEC. 23. *Woman living separate from her husband, a free trader :*

Every woman who shall be living separate from her husband, either under a judgment of divorce *a mense et thoro*, or from the bonds of matrimony, by a competent court, or under a deed of separation, executed by said husband and

Woman can be a free trader though separate from husband.

wife, and registered in the county in which she resides, shall be deemed and held, from the docketing of such judgment, or from the registration of such deed, a free trader.

SEC. 24. *Woman abandoned or turned out of doors by her husband :*

Wife abandoned by husband deemed a free trader.

Every woman whose husband has abandoned, or shall abandon her, or shall maliciously turn her out of doors, shall be deemed a free trader, so far as to be competent to contract and be contracted with, and to bind her separate property, but the liability of her husband for her reasonable support shall not thereby be impaired.

SEC. 25. *Husband liable jointly with wife for torts and costs and fines in criminal actions :*

Joint liabilities of husband and wife.

Every husband living with his wife shall be jointly liable with her for all damages accruing from any tort committed by her and for all costs and fines incurred in any criminal proceeding against her.

SEC. 26. *What leases, &c., by wife valid, and what not, without private examination :*

Leases when valid and not valid.

No lease or agreement for a lease or sub-lease or assignment by any married woman, not a free trader, of her lands or tenements, or chattels real, to run for more than three years, or to begin in possession more than six months after its execution, or any conveyance of any freehold estate in her real property, shall be valid, unless the same be executed by her and her husband, and proved or acknowledged by them, and her free consent thereto, appear on her examination separate from her husband, as is now or may hereafter be required by law in the probate of deeds of *femcs covert*.

WHAT CONTRACTS MAY BE MADE BETWEEN HUSBAND AND WIFE.

SEC. 27. *What not to be valid unless with sanction of judge, &c.:*

Contracts not valid can effect real estate.

No contract between a husband and wife made during coverture shall be valid to affect or change any part of the

real estate of the wife or the accruing income thereof, for a longer time than three years next ensuing the making of such contract, or to impair or change the body or capital of the personal estate of the wife, or the accruing income thereof, for a longer time than three years next ensuing the making of such contract, unless such contract shall be in writing, and be duly proved as is required of conveyances for land; and upon the examination of the wife separate and apart from her husband as is now or may hereafter be required by law in the probate of deeds of *feme covert*s, it shall appear to the satisfaction of such officer, that the wife freely executed such contract, and freely consented thereto at the time of her separate examination, and that the same is not unreasonable or injurious to her. The certificate of the officer shall state his conclusions, and shall be conclusive of the facts therein stated: *Provided*, That the same may be impeached for fraud as other judgments may be.

Separate examination for wife.

Proviso.

SEC. 28. *What contracts valid:*

Contracts between husband and wife not forbidden by the next preceding section and not inconsistent with public policy are valid, and any persons of full age about to be married, and subject to the next preceding section, any married persons may release and quit claim dower, tenancy by the courtesy, and all other rights which they might respectfully require, or may have acquired by marriage in the property of each other; and such leases may be pleaded in bar of any action or proceeding for the recovery of the rights and estates so released.

Validity of Contracts.

SEC. 29. *Savings from separate estate of wife:*

The savings from the income of the separate estate of the wife, are her separate property. But no husband who during the coverture (the wife not being a freeholder under this act,) has received without objection from his wife, the income of her separate estate, shall be liable to account for such receipt, for any greater time than the year next pre-

Wife's separate income.

ceeding the date of a summons issued against him in an action for such income, or next preceeding her death.

WHAT ESTATE THE HUSBAND, UPON THE DEATH OF THE WIFE, SHALL HAVE IN HER REAL ESTATE.

SEC. 30. *Husband tenant by the courtesy :*

Tenant by Courtesy.

Every man who hath married, or shall marry a woman, and by her have issue born alive, shall after her death, he surviving, be entitled to an estate as tenant by the courtesy during his life, in all the lands, tenements, and hereditaments, whereof his said wife was feneficially seized in deed during the coverture, wherein the said issue was capable of inheriting, whether the said seizing was of a legal or of equitable estate.

SEC. 31. *Power of married women to make a will :*

Right of married woman to bequeath her estate.

Every married woman shall have power to devise and bequeath her real and personal estate, as if she were a *feme sole*; and her will shall be proved as is required of other wills: *Provided, nevertheless*. That no will made by any married woman, shall be held to deprive her husband, surviving, of his estate in her real property, as tenant by the courtesy, as defined in the next preceding section.

Proviso.

SEC. 32. *How the personal estate of a married woman intestate shall be distributed :*

Husband to administer on the estate of a wife who dies intestate.

It any married woman shall die wholly or partially intestate, the surviving husband shall be entitled to administer on her personal estate, and shall hold the same, subject to to the claims of her creditors and others having rightful demands against her, to his own use. If the husband shall die after his wife, but before administering, his executor or administrator or assignee shall receive the personal property of the said wife, as a part of the estate of the husband, subject as aforesaid.

DIVORCE.

SEC. 33. *What marriages may be declared void on application of the parties :*

The superior courts in term time, on application made as by law provided, by either party to a marriage contracted contrary to the prohibitions in section two (2) of this act, or declared void by said section, may declare such marriage void from the beginning, subject nevertheless to the proviso contained in said section two (2).

When marriages declared void.

SEC. 34. *What to be declared void at all times :*

All marriages between a white person and a negro, or indian, or between a white person and a negro or indian descent, to the third generation inclusive, shall be absolutely void to all intents and purposes, and shall be so held and declared by every court at all times, whether during the lives or after the deaths of the parties thereto; and it shall not be lawful for the issue of any such marriage to be legitimated to the supposed father.

Marriages which are null and void.

Offspring not legitimated.

SEC. 35. *For what causes marriage may be dissolved :*

Marriages may be dissolved and the parties thereto divorced from the bonds of matrimony, on application by the party injured, made as by law provided, in the following cases :

Laws of divorce.

1st. If either party shall separate from the other and live in adultery ;

2d. If the wife shall commit adultery ;

3d. That either party at the time of the marriage was and still is naturally impotent.

SEC. 36. *What cause sufficient for divorce from bed and board :*

The superior courts may grant divorces from bed and board on the application of the party injured, made as by law provided, in the following cases :

Causes of divorce.

1st. If either party shall abandon his or her family ; or,

2d. Shall maliciously turn the other out of doors ; or,

3d. Shall by cruel or barbarous treatment endanger the life of the other; or,

4th. Shall offer such indignities to the person of the other as to render his or her condition intolerable, and life burdensome; or,

5th. Shall become an habitual drunkard.

SEC. 37. *Alimony on divorce from bed and board:*

Alimony.

When any court shall adjudge any two married persons divorced from bed and board, it may also decree to the party upon whose application such judgment was rendered, such alimony as the circumstances of the several parties may render necessary: which, however, shall not in case exceed the one-third part of the net annual income from the estate, occupation, or labors of the party against whom the judgment shall be rendered.

SEC. 38. *Alimony pendente lite:*

Husband to pay alimony during suit.

If any married woman shall apply to a court for a divorce from the bonds of matrimony, or from bed and board with her husband, and shall set forth in her complaint such facts, as if true, will entitle her to the relief demanded, and it shall appear to the judge of such court, either in or out of term, by the affidavit of the complainant, or other proof, that she has not sufficient means whereon to subsist during the prosecution of the suit, and to defray the necessary and proper expenses thereof, the judge may order the husband to pay her such alimony during the pendency of the suit, as shall appear to him just and proper, having regard to the circumstances of the parties: and such order may be modified or vacated at any time, on the application of either party or of any one interested: *Provided*, That no order allowing alimony *pendente lite* shall be made unless the husband shall have had five days' notice thereof: *And provided, further*, That if the husband shall have abandoned his wife and left the state, or shall be in parts unknown, or shall be about to remove or dispose of his property for the purpose of defeating the claim of his wife, no notice shall be necessary.

Proviso.

Further proviso.

SEC. 39. *When wife not seeking for divorce is entitled to alimony :*

If any husband shall separate himself from his wife and fail to provide for her with the necessary subsistence according to his means and condition in life, or if he shall be a drunkard or spendthrift, the wife may apply for a special proceeding to the judge of the superior court for the county in which he resides, to have a reasonable subsistence secured to her and to the children of the marriage from the estate of her husband, and it shall be lawful for such judge to cause the husband to secure so much of his estate as may be proper according to his condition and circumstances, for the benefit of his said wife and children, having regard also to the separate estate of the wife.

Husband to support wife when separated.

SEC. 40. *Venue in proceedings for divorce :*

In all proceedings for divorce, the summons shall be returnable to the court of the county in which the applicant resides.

Summons returnable.

SEC. 41. *Security for costs on application for divorce or alimony :*

It shall not be necessary for either party to a proceeding for divorce or alimony to give any undertaking to the other party to secure such costs as such other party may recover. The judge of the court in which any such proceeding is pending, both before and after payment therein, may at any time in his discretion, make any order respecting the payment of such costs as may be incurred by the wife, either by the husband or by her from her separate estate.

Judge of Court to make orders respecting payment of costs.

SEC. 42. *Consequences of a divorce, a vinculo on the property of the parties :*

When a marriage shall be dissolved for any of the causes set forth in section thirty-five of this act, the party adjudged guilty of such cause, shall thereby lose all his or her right to an estate by the courtesy, or dower, and all right to any year's provision or distributive share in the personal prop-

Loss of property adjusted to the guilty party.

perty of the other, and all right to administer on the estate of the other and every right and estate in the real or personal estate of the other party, which by settlement before or after marriage, was settled upon such party in consideration of the marriage only.

SEC. 43. *Consequences of a divorce, a vinculo on the personal relations of the parties :*

Divorce annuls all marriage rights.

Proviso.

After a judgment of divorce from the bonds of matrimony, all rights arising out of the marriage shall cease and determine, and either party may marry again: *Provided*, That no judgment of divorce shall render illegitimate any children *in esse*, or born of the body of the wife during coverture.

SEC. 44. *Consequences of an elopement with an adulterer, &c.*

Right of dower lost.

Proviso.

If any married woman shall elope with an adulterer, she shall thereby lose all right to dower in the lands and tenements of her husband, and also, all right to a year's provision, and to a distributive share from the personal property of her husband, and also, all right and estate in the property of her husband, settled upon her upon the sole consideration of the marriage, before or after marriage: any such elopement may be pleaded in bar of any action, or proceeding, for the recovery of such rights or estates: *Provided*, The husband shall have commenced an action for divorce during his lifetime.

SEC. 45. *Consequences of a husband separating from his wife, and living in adultery :*

Husband separating himself from wife loses all right and estate as tenant by courtesy.

If any husband shall separate himself from his wife and live in adultery, he shall lose all his right and estate as tenant by the courtesy in the lands, tenements and hereditaments of his wife, and also all his right and estate of whatever character, in and to her personal property, as administrator, or otherwise; and also any right and estate in the property of his wife, which may have been settled upon

him solely in consideration of the marriage, by any settlement before or after marriage; and such separation, and living in adultery, may be pleaded in bar of any action or proceeding for the recovery of such rights or estates: *Provided*, The wife has commenced an action for divorce in his lifetime.

SEC. 46. *Consequences of divorce upon the right to the custody of the children:*

After the filing of a complaint in any proceeding for divorce, whether from the bonds of matrimony, or from bed and board, both before and after final judgment therein, it shall be lawful for the judge of the court, in which such application is or was pending, to make such orders respecting the care, custody, tuition and maintenance of the children of the marriage as may be proper, and from time to time to modify or vacate such orders: *Provided*, That no order respecting the children, shall be made on the application of either party without five, days notice to the other party, unless it shall appear that the party having the possession or control of such children, has removed or is about to remove the children or himself, beyond the jurisdiction of the court.

SEC. 47.

This act shall be in force from the first day of July, one thousand eight hundred and seventy-two.

Ratified the 12th day of February, A. D. 1872.

CHAPTER CXCIV.

AN ACT MAKING INDICTABLE THE FELLING OF TREES INTO NEUSE RIVER.

SECTION 1. *The General Assembly of North Carolina do enact*, That it shall not be lawful for any person to fell or cause to fall any tree into Neuse river, and if any person

shall offend against the provisions of this act, or shall incite or procure any other person so to do, he shall be guilty of a misdemeanor: *Provided*, That this act shall have reference only to that portion of the Neuse river within the bounds of Wake county.

Proviso.

When act to take effect.

SEC. 2. This act shall be in force from its ratification.
Ratified the 12th day of February, A. D. 1872.

CHAPTER CXCIV.

AN ACT TO GIVE THE CHIEF OFFICERS OF THE CITIES AND TOWNS THE CRIMINAL JURISDICTION OF JUSTICES OF THE PEACE.

Officers of cities and towns in this State to be granted the duties of Justice of the Peace.

SECTION 1. *The General Assembly of North Carolina do enact*, That it shall and may be lawful for the chief officers of all the cities and towns in this state, by whatever name or title such chief officers may be named, and it shall be their duty to have and exercise all the jurisdiction, powers and duties given to justices of the peace by chapters two, three and four of an act being chapter one hundred and seventy-eight of the acts of one thousand eight hundred and sixty-eight and one thousand eight hundred and sixty-nine, which is entitled, "Of proceedings in criminal cases," subject to the restrictions and limitations contained in those chapters: *Provided*, No such chief officer shall take jurisdiction of any offence committed beyond the limits of the city or town of which he is such chief officer. Nothing in this act shall be held to impair the jurisdiction heretofore given to justices of the peace of the county.

Proviso.

Violation of ordinance, a misdemeanor.

SEC. 2. Any person or persons violating any ordinance of any city or town of this state shall be deemed guilty of a misdemeanor, and shall be subject to the provisions of this act.

When act to take effect.

SEC. 3. This act shall go into effect on its ratification.
Ratified the 12th day of February, A. D. 1872.

CHAPTER CXCVI.

AN ACT TO AMEND SECTION FOUR HUNDRED AND NINETEEN,
CHAPTER ONE, TITLE NINETEEN OF THE CODE OF CIVIL PRO-
CEDURE.

SECTION 1. *The General Assembly of North Carolina do* Amendment.
enact, That subdivision four, section four hundred and nine-
teen, chapter one, of title nineteen, of the code of civil pro-
cedure, be amended by adding thereto the following words :
“Or if he or she, as the case may be, shall renounce the
executorship and endorse the same on the will or on some
paper attached thereto, before it is propounded for probate,
in which case the renunciation must be recorded with the
will if admitted to probate.”

SEC. 2. This act shall be in force from and after its ratifi- When act to be in
cation. force.

Ratified the 12th day of February, A. D. 1872.

CHAPTER CXCVII.

AN ACT TO EMPOWER THE SUPERIOR COURT JUDGE TO APPOINT
A COMMISSIONER IN CERTAIN CASES FOR THE SETTLEMENT
OF ESTATES.

SECTION 1. *The General Assembly of North Carolina do* Settlement of es-
enact, That in all cases where the judge of probate was or tates.
shall be executor or administrator of any estate at the time
of his election to the office of probate judge, in order to
enable the judge of probate to settle such estate, the judge
of the superior court is empowered to make such order as
may be necessary in the settlement of the estate ; may audit
the accounts or appoint a commissioner to audit the accounts
of such executor or administrator, and report to the judge
Commissioner ap-
pointed to audit
accounts.

Approval of
Judge of Superior Court.

of the superior court for his approval, and when the accounts are so approved by the judge of the superior court, it shall be his duty to order the proper record to be made by the judge of probate, and the accounts to be filed in the probate court.

Record made by
Judge of Probate.

When act to be in
force.

SEC. 2. That this act shall be in force from and after its ratification.

Ratified the 12th day of February, A. D. 1872.

CHAPTER CXCVIII.

AN ACT FOR THE RELIEF OF CERTAIN TAX PAYERS OF WILSON COUNTY.

Receipts taken in
payment for
taxes.

SECTION 1. *The General Assembly of North Carolina do enact*, That in the collection of the taxes levied for the support of the public schools of the state, for the year one thousand eight hundred and seventy-two, the sheriff of Wilson county be and he is hereby instructed to receive in payment of such taxes any receipt or receipts given by the constable or other collecting officers of any township in said county, for taxes heretofore illegally levied and collected by the board of trustees, or school committee of such township, for the support of public schools, and the amount of such receipts shall be deducted from the apportionment of the school fund for the year one thousand eight hundred and seventy-two, for the township in which such receipts were taken.

Deduction from
school fund.

When act to take
effect.

SEC. 2. This act shall be in force from its ratification.

Ratified the 12th day of February, A. D. 1872.

CHAPTER CXCIX.

AN ACT TO ENABLE ANY PERSONS^d NOT LESS THAN THREE, TO BECOME INCORPORATED AND TO REGULATE SUCH AND OTHER CORPORATIONS.

SECTION 1. *The General Assembly of North Carolina do enact as follows :*

Any three or more persons desiring to form themselves into a private corporation for any purpose not unlawful, may file with the clerk of the superior court of the county in which it is proposed that such corporation shall have its only or principal place of business, a written plan of incorporation in which shall be set forth the following particulars :

The forming of private corporations.

First. The name and residences of those proposing to be incorporate.

Secondly. The name of the proposed corporation, the place in which it proposes to have its principal or only place of business, and the general purpose of the corporation, and the nature of the business which it proposes to do.

Qualifications.

Thirdly. The amount of the capital stock and the number of shares into which it is to be divided, showing the par value of each share.

Fourthly. The number of shares which upon incorporation will be owned by each of named corporators.

Fifthly. The title of the principal officers.

Sixthly. By whom the corporation shall be governed and how they shall be elected, and by what proportion of corporators the by-laws shall be made, and the number of votes which the various number of shares held by one person shall have at a general meeting.

Seventhly. How often regular general meetings of the stockholders shall be had, and by whom the times and places of such meeting shall be designated.

Eighthly. Whether or not the stockholders of the corporation shall be individually liable for its debts.

Ninthly. Any other matters which it may be desirable to set forth in the organic law.

SEC. 2. *Religious, &c., corporations need not state capital stock.*

Capital stock not stated for religious corporations.

Corporations having no capital stock and no shares, and which are proposed not at all for trading purposes, but exclusively for religious, benevolent, charitable or social purposes, need not state the amount of their capital stock.

SEC. 3. *Clerk to issue permits to open books of subscription:*

Form of opening books of subscription.

On the filing of such plan of incorporation, signed by the proposed original corporators, whose signatures shall be proved to the satisfaction of the clerk, as deeds are required to be, the clerk shall append to one or more copies thereof, a permit to open books of subscription to the capital stock of the proposed company, at such times and places as may be desired, and all subscriptions to such plans shall bind the subscribing parties according to the terms thereof.

SEC. 4. *If two-thirds not subscribed, proposition deemed abandoned:*

Two-thirds of the capital stock requisite for corporation.

If two-thirds or more of the capital stock be not subscribed for within twelve months after the date of such permit, (the day of the date excluded,) the proposition to incorporate shall be deemed abandoned.

SEC. 5. *If two-thirds of stock are subscribed for, clerk to call a meeting.*

When two-thirds capital stock are subscribed, a meeting of stockholders may be called.

If two-thirds or more of the capital stock shall be subscribed for within the twelve months next ensuing the date of the said permit, it shall be the duty of the clerk on request by any subscriber or corporator, at any time within two years next ensuing the date of such permit, to call a meeting of the proposed corporators and subscribers, at the place designated in the plan of incorporation, as the principal place of business of the proposed corporation, or at some convenient place near thereto: such call shall be advertised:

at least once a week for not less than twenty-one days, in some newspaper published in the judicial district in which such principal place of business is situated, or if there be no such newspaper, then in some newspaper published in the city of Raleigh, and at the door of the courthouse of the county in which such principal place of business is situated. The clerk shall not be required to make such advertisement until he shall be paid the expense thereof.

Public notification given.

SEC. 6. *What is to be done at the meeting :*

At the meeting held under such call the subscribers shall vote as prescribed in the plan of incorporation ; they shall elect such officers as may be provided for in the plan and such others as they may think proper ; they may adopt any by laws, not inconsistent with law, or with the said plan.

Subscribers to vote and elect officers.

SEC. 7. *If ten per cent not paid, proposal deemed abandoned :*

If ten per cent. of the capital stock subscribed for be not paid before or at the said meeting, or within three months thereafter, to some person authorized to receive the same, the proposal of incorporation shall be deemed abandoned, and all sums paid on subscriptions for the stock shall be refunded, subject to a deduction of a ratable proportion of the expenses lawfully incurred by the purposes in procuring the incorporation.

Proposal of incorporation to be abandoned if ten per cent is not paid.

SEC. 8. *How incorporation completed :*

It shall be the duty of the chief or some officer of the proposed corporation, within six months after the meeting aforesaid, in case ten per cent. or upwards on the subscriptions to the capital stock of the proposed corporation shall have been paid as above required to certify such payment to the clerk, together with a list of the subscribers, showing the number of shares subscribed for by each, and the sums paid by each, and the proceeding of the meeting hereinbefore provided for ; the same shall be attached to a copy of the plan of incorporation, filed in the clerk's office,

Form of incorporation.

Clerk to endorse order for registration.

and the clerk shall thereupon endorse thereon an order for the registration of such plan and list of subscribers and officers, by the register of deeds of the county, and upon such registration the proposed corporation shall be a corporation by the name and for the purposes in such plan set forth; copies of such plan and lists from the books of the register and duly certified by him, shall be admitted as evidence in all courts, as copies of deeds are, or may be allowed to be.

What may be entitled evidence.

SEC. 9. *Fees of clerk and register :*

Fees of clerk.

The clerk and register shall respectively receive for their services the like fees as are or may be allowed on the probate and registration of a deed for land.

SEC. 10. *Power of corporation :*

Every corporation formed under this act shall possess the following powers :

Continuous identity.

First. Continuous identity : Continuous identity for the term named in the plan of incorporation, or if none be named, perpetually : *Provided*, That every corporation may for just cause, and without prejudice to private rights, be suspended, dissolved, or nullified according to any general public law now existing or which may be hereafter enacted by the general assembly.

Proviso.

Secondly. Power to contract, &c. : Power to contract and be contracted with in its corporate name, within the scope of the purpose of the corporation, either under its common seal or in cases where a seal is not required by law to the validity of a like contract by an individual through its chief officer, or by some other officer appointed for the purpose by the by-laws or by special resolution at a general meeting.

Rights, privileges, &c.

Thirdly. Power to sue, &c. : Power to sue and be sued, plead and be impleaded.

Fourthly. To make by-laws : Power to make by-laws not unreasonable and not inconsistent with law, for the regulation and government of the incorporators as such.

Fifthly. To purchase and hold property : Powers to purchase, hold and convey personal property, and also real

property, to a quantity not exceeding that specified in this act, or in any which may hereafter be enacted.

SEC. 11. *How unpaid subscriptions may be enforced :*

The corporation shall have a lien on the stock of each subscriber or stockholder for the unpaid residue of his subscription, and for all unpaid dues to the corporation : *Provided*, That if upon the certificate of ownership of shares, such indebtedness or liability do not appear, a *bona fide* purchaser of such shares without notice shall take free from any lien for the antecedent indebtedness of his assignor. The interest and estate of any subscriber or stockholder in any company may be sold under execution issuing upon any judgment recovered by the company against him as other like personal property may be by law.

Corporation may have a lien on stock.
Proviso.

Estates may be sold under execution.

SEC. 12. *What company may do after registration of plan :*

After the registration of the plan of incorporation as provided for in section _____ of this act, the company may hold meeting, enact by-laws and elect officers and exercise all the powers belonging to corporations under this act.

After registration company may hold meetings, &c.

SEC. 13. *Not to do or attempt any corporate act before registration :*

No proposed corporation shall be deemed incorporated or shall do or attempt any corporate act except as the same is herein expressly allowed, or contract in its corporate name before the registration of the plan. The persons receiving subscriptions to the capital stock of the company may give certificate of subscriptions, and the proper persons may give receipts for payments upon such subscriptions ; but no certificate of stock shall be issued until after such registration.

Company to have no right before registration.

Certificates to be given.

SEC. 14. *What certificate of stock shall set forth :*

Every certificate of the ownership of stock in any incorporated company shall be signed by the chief officer of the company, or by such other officer or officers as shall be

Certificates to be signed by officer of company.

appointed by the company for that purpose. It shall set forth :

What certificate shall show.

First. The name of the company.

Secondly. The amount of its capital stock.

Thirdly. The par value of such share.

Fourthly. The name of the holder and the number of his shares.

Fifthly. The date of its issue.

Sixthly. Whether or not the stockholders according to the plan of incorporation are individually liable on the contracts of the corporation.

Seventhly. The date and place of registration of the plan of incorporation.

Eighthly. The amount which has been paid on the shares.

SEC. 15. *Penalty for issuing in other form :*

False statements a misdemeanor.

If the chief or other authorized officer of any company shall issue any certificate of stock on which it shall not be stated whether or not the stockholders are individually liable on the contracts of the company, according to its plan of incorporation or in which the fact of such liability shall be falsely stated, it shall be held that upon all contracts made after the date of such issue, all the officers of said company are individually liable as sureties for the company to such contracts, and they may be sued as such, whether by the plan of incorporation the individual stockholders were or were not liable, and the officer issuing such certificate shall be deemed guilty of a misdemeanor.

SEC. 16. *Certificates of stock how assignable, effect of assignment :*

Certificates to be endorsed by owners.

Certificates of stock shall be assignable by the endorsement of the owner, or by some writing attached thereto ; but no assignment of the stock of any company by the registered plan of incorporation, of which the individual stockholders are liable for the contracts of the company, shall be valid to exonerate the assignor from such liability upon contracts made after such assignment, until such assignment

Invalidity of certificates.

shall have been entered on the stock book of the company, nor shall any company be bound to notice of such assignment until the same, authenticated as may be required by the by-laws, shall be presented to the proper officer for entry on such book.

SEC. 17. *Certificates of stock may be renewed, and what to be set forth:*

Certificates of stock may be renewed or re-issued from time to time, according to the by-laws, and upon every renewal, or re-issue, the certificate shall set forth its own date and the date of the original issue.

Renewal of certificates.

SEC. 18. *Subsequent payment for stock to be endorsed on certificate:*

Every payment for stock made by any holder to the company after the issue of any certificate, shall, at the request of the holder making the payment, be endorsed on such certificate.

Payment endorsed on certificates.

SEC. 19. *Every corporation to keep list of stockholders:*

Every corporation having a capital stock divided into shares, and not exclusively for religious, benevolent, charitable or social purposes, shall keep a book, in which shall be entered the names of original holders of certificates of stock, the number of shares, the par value of each, the amounts paid thereon, all assignments and re-issue of shares with the date thereof; this book shall be open at all proper times and under proper regulations, to the inspection of all stockholders, and in the case of companies, whose stockholders by the registered plan of incorporation are individually liable, to the inspection of all creditors and contractors with the company.

Book kept for registering stock-corporations.

SEC. 20. *Stockholders when individually liable and to what amount:*

The stockholders in every corporation, which in its registered plan of incorporation shall set forth, that the stockholders will be individually liable for the contracts of the

Individual liabilities.

company, shall be liable upon all judgments which may be confessed by, or recorded against the company, upon any contract made or entered into by the company, to the amount of the par value of the shares held by them respectively at the time of the making or entering into such contract, and such liability may be enforced in the manner following:

SEC. 21. *How liabilities enforced:*

Enforcement of liabilities.

Any creditor obtaining a judgment against such corporation as is mentioned in the next preceding section in which judgments shall be set forth, the date of the contract declared on and having docketed the same in the superior court of the county in which the company has its only or principal place of business, and having caused an execution to issue against the property of the company, may when such execution shall be returned unsatisfied, give notice to any person or persons who was or were a stockholder or stockholders in such company, that on a certain day, which shall not be less than twenty days after the service of such motion he will move before the clerk of the superior court of the county in which such stockholder or stockholders reside, for several judgments against him or them for sums not exceeding the par value of the shares held by them respectively in such company at the date of the contract recovered on, and not exceeding in all the amount of each recovery; on motion pursuant to the notice, a certified transcript of the judgment against the company, shall be held to be conclusive evidence of the existence of the debt by the company and of the date of the contract, unless the recovery shall be impeached for fraud by the answer of the defendant under oath, and the certificate of the proper officer of the company shall be presumptive evidence of the ownership by the defendant of the shares stated in such certificate at the date therein stated, unless the statement in the same shall be in like manner denied. And it shall be the duty of the clerk, unless the allegations of the plaintiff shall be denied as aforesaid, to give the judgment demanded; either party shall have the right

Judgments rendered.

Conclusive evidence.

Presumptive evidence.

Duty of clerk.

to a trial by jury, and to an appeal under the regulations prescribed in other like cases. Trial by jury.

SEC. 22. *Other remedy by special proceedings :*

Any creditor of a corporation, by judgment docketed in the county in which the corporation has its only or principal place of business, upon which an execution has been returned unsatisfied, or any corporator of a corporation who voluntarily or under compulsion, as is provided in the next preceding section, shall pay any such judgments against the corporation, may institute by summons, as is provided in other cases of special proceedings, an action against the corporation in the superior court of the county in which it has its only or principal place of business, and by his complaint suggest that such corporation is insolvent, of which the judgment against it shall be *prima facie* evidence, and demand judgment of the court, that the corporation be dissolved or suspended and its effects applied *pro rata* to the payment of its debts; and if the corporation be one for the contracts of which the individual stockholders are liable by the registered plan of organization, he may also demand judgments, that after the effects of the corporation shall have been exhausted the debts of the corporation and all necessary facts relating thereto may be ascertained, and judgment given against the individual stockholders for the rateable share of debt payable by each. The pleadings in such case shall be according to the course of the court, and the court shall determine the case as to equity and justice shall appertain and may declare such corporation dissolved or suspended; and may from time to time as it may appear that any one or more of the stockholders are unable to pay their rateable share of the debts, make a new distribution of liability, so however that no stockholder shall be compelled to pay from his individual means more than the par value of his share of stock held by him when the contract of the corporation was made.

Action can be brought against corporation.

Insolvency of corporation.

Judgment may be demanded.

Court to determine the case.

SEC. 23. *Contract for over one hundred dollars to be in writing, and to set forth what:*

Contracts exceed-
ing \$100 to be in
writing.

Every contract of every corporation by which a liability may be incurred by the company exceeding one hundred dollars, shall be in writing, and either under the common seal of the corporation, or signed by some officer of the company authorized thereto, and shall state on the face thereof whether or not, according to the registered plan of incorporation, the stockholders are individually liable for the contracts of the company, otherwise the same shall be void.

SEC. 24. *Liability of officers on contract for not over one hundred dollars:*

Contracts less
than \$100.

Any officer of a corporation making or professing to make any contract not in writing, in the name of, or in behalf of any corporation, of the value of one hundred dollars or less, shall be liable as surety for such corporation upon such contract, and may be sued either with the corporation, or separately, for a breach thereof.

SEC. 25. *Penalty for making contracts not in writing over one hundred dollars:*

Contracts over
\$100.

Any officer of a corporation professing or undertaking to make any contract of value greater than one hundred dollars in the name of, or on behalf of the corporation, not in writing, and either sealed with the common seal of the company or signed by the same officer of the company authorized for such purpose, or in writing, and not setting forth truly on the face thereof, whether or not the stockholders of the company are or are not liable thereon, shall be held and deemed individually liable upon such contract for any breach thereof, as if the same had been made by him personally, and upon conviction shall be punished as for a misdemeanor.

Misdemeanor.

SEC. 26. *What power corporations shall not have :*

No corporation formed under this act shall have any exclusive privileges or power to do any of the act hereinafter prohibited, to wit :

Prohibitions of act.

SEC. 27. *Shall not issue bills, &c., intended to circulate as money :*

To issue bills or notes, payable on demand, or intended to circulate as money, and any such corporation issuing or attempting to issue any such bills or notes, shall be liable to dissolution, and on conviction of such offence, may be fined in the discretion of the court ; and every officer of any corporation, signing his name for or on behalf of such corporation, to any such bills or notes, shall be guilty of a misdemeanor, and shall be fined and imprisoned at the discretion of the court.

Bills or notes not to circulate as money.

Penalty.

SEC. 28. *Shall not hold over three hundred acres of land :*

No corporation formed under this act (except railroad companies) shall have power to hold at the same time more than three hundred acres of land in fee simple, or for a longer term than twenty-one years.

Amount of land held by corporations.

SEC. 29. *Corporations may hold for not over twenty-one years, when provided nevertheless :*

Term of time.

That any corporation may take a mortgage upon any quantity of land to secure a debt owing to the corporation, and may take a conveyance of any quantity of land in partial or total satisfaction of a debt due the corporation ; and may purchase any quantity of land at a sale under execution against a debtor of the corporation, or at any individual sale of the property of a debtor of the corporation ; but the corporation purchasing such land to a quantity exceeding with its lands previously owned three hundred acres, shall not be capable of holding the same for more than twenty-one years from the date of such purchase, and all lands so purchased in excess of the limited quantity and held by any corporation, shall at the end of twenty-one years from the date of

When lands may be forfeited to the state.

such purchase be forfeited to the state, and may be recovered in an action brought in the name of the state by its proper officer; the corporation purchasing such land may at any time within twenty-one years next ensuing the date of its purchase, convey by deed under its common seal, such estate in said lands as it would have had under its purchase, but for the limitation herein contained.

SEC. 30. *Duty of grand jury and solicitor :*

Duty of grand jury.

It shall be the duty of the grand jury in each county to inquire and report to the solicitor, what lands at any time are held by any corporation in violation of the provisions of this act; and it shall be the duty of every solicitor, either upon or without such report, to institute proceedings for the forfeiture of all such lands, and to report the same to the governor from time to time.

Forfeiture of lands.

SEC. 31. *Lands how sold, &c. :*

Proceeds of sale of state lands to be paid into state treasury.

The lands recovered by the state under this act, shall not be the subject of entry, but shall be sold at public sale for cash, under the direction of the governor and attorney general, and the proceeds paid into the state treasury; and the sale shall be reported to the general assembly at its next ensuing session.

SEC. 32. *Existing corporations effected :*

All corporations (except railroad corporations) which at the ratification of this act shall be seized in fee, or for a longer term than three lives in being, or possessed for a longer time than twenty-one years next ensuing such ratification, if any lands or tenements exceeding three hundred acres in quantity are required within twenty-one years next ensuing the date of such ratification to dispose of such excess; and the foregoing sections of this act relating to the power to purchase, hold and convey land, are applicable to such companies.

SEC. 33. *How corporations may be dissolved :*

All corporations formed under this act may be dissolved by special proceeding, instituted by the company or by any incorporator, or by any judgment creditor, whose execution issued to the county in which the corporation has its only or principal place of business shall be returned unsatisfied, or by the authority of the attorney general in the name of the state, for the causes hereinafter :

Dissolution of corporations.

SEC. 34. *Abuse of power :*

First. For any abuse of its powers to the injury of the public or of the incorporators, or its creditors or debtors.

SEC. 35. *Non-user :*

Secondly. For non-use of its powers for three years, or more, consecutively.

SEC. 36. *Insolvency :*

Thirdly. For insolvency manifested by the return of an execution unsatisfied upon a judgment against the company, docketed in the superior court of the county where it has its only or principal place of business.

SEC. 37. *Criminal conviction :*

Fourthly. Upon any conviction of the company of a criminal offence, if such offence be persistent.

SEC. 38. *How summons in such cases served :*

Upon any special proceedings for the dissolution of a corporation the summons shall be served on the chief or other officer of the corporation authorized for that purpose as writs of summons are require to be in like cases, and shall be served on the incorporators, creditors, dealers and others interested in the affairs of the company by publishing a copy thereof, at least weekly, for not less than three successive weeks, in some newspaper printed in the county in which such corporation has its only or principal place of business, or if there be no such newspaper published, then by posting

Manner of serving summons.

a copy of such summons at the door of the court house of such county, and publishing a copy thereof for the time and in the manner aforesaid in the newspaper published nearest the county seat of the county in which such corporation has its only or principal place of business, or in some newspaper published in the city of Raleigh, and such publication shall be deemed and held sufficient service on all the corporations, creditors of, or dealers with such corporation, and all such corporations, creditors or dealers or other parties interested, may intervene in said proceedings and become parties thereto for themselves, or for others in like interest under such rules as the court for the purpose of justice shall prescribe.

Public notification held sufficient service.

SEC. 39. *Consequences of dissolution :*

Upon a judgment for the dissolution of any corporation, the court may appoint a receiver of its effects and make the proper order for the settlement of its affairs; after such judgment it shall continue to exist, and its corporation name may be used under the order of the court for the following purposes only :

Receiver appointed for settlement.

First. The collection of all debts owing to it ;

Secondly. The sale of all its property and effects ;

Thirdly. The payment of all persons having just claims against it ;

Fourthly. The distribution of its surplus effects among the corporators ;

Fifthly. The payment of all cost connected with the settlement.

Uses of corporate name.

SEC. 40. *Advertisement of dissolution :*

Every judgment for the dissolution of a corporation shall be published as the summons is required to be in section thirty-eight (38) of this act.

Dissolution to be publicly announced.

SEC. 41. *How the capital stock may be increased :*

A corporation can increase its capital stock or add to the number of its shares only by a vote of a majority both in number and in value of the stockholders at a general meet-

Increase of capital stock.

ing of the stockholders held pursuant to the by-laws; every such increase shall be registered as the plan of incorporation is required to be, and a reference to such registration shall be made in the margin of the registration of said plan. It shall also be advertised as a summons is required to be by section thirty-eight of this act.

Registration of increase.

SEC. 42. *Of insurance companies :*

Every corporation doing the business of maritime, fire or life insurance shall make to the secretary of state, at least once in each year, at such time and in such form as shall be prescribed by him, a report of its condition, which shall be sworn to by the chief officer of the company or by some other officer appointed for the purpose, and shall be published at the expense of the company in some newspaper selected by said secretary, published in the city of Raleigh.

Full reports of Insurance Companies to be made to Sec. State.

Public notification.

SEC. 43. *Secretary to appoint examiner :*

Once in each year the secretary of state shall appoint some competent person to examine into the affairs of every corporation which insures against loss, either by the perils of the sea or rivers, or by fire, or which insures lives, or which grants annuities or holds property in trust or receives money on deposit, who shall be paid by such companies, a reasonable compensation, not to exceed ten dollars per day while engaged in such examination. He shall report to the secretary of state the result of his examination, and whether in his opinion the said companies respectively are safe and are doing their business on safe principles, and such report shall be published by the secretary at the expense of the company.

Examiner appointed.

Compensation.

SEC. 44. *Duty of officers of corporations to exhibit books, &c. :*

It shall be the duty of every officer of every corporation mentioned in the next preceding section, having in his possession or control, any books, accounts or paper of any company of which he is an officer, to exhibit the same on demand to any person who shall be appointed under section

Officers required to exhibit their books.

forty-three of this act, and to give to such person all the information necessary to enable him to make a full and correct report; and every such officer failing or refusing so to do, or making to any person appointed under section forty-three of this act knowingly or carelessly any false statement respecting the affairs of the corporation of which he is an officer, shall be deemed guilty of a misdemeanor, and on conviction, punished by five and imprisonment, at the discretion of the court.

Penalty.

SEC. 45. *Tax on bills for incorporations presented to general assembly:*

Tax of \$35.

No bill to incorporate any company shall be read in either house of the general assembly unless the same shall be accompanied by a receipt from the treasurer of the state for twenty-five dollars.

Ratified the 12th day of February, A. D. 1872.

CHAPTER CC.

AN ACT TO CURE CERTAIN DEFECTS IN THE PROBATE OF DEEDS-
AND PRIVY EXAMINATION OF FEME COVERTS IN THIS STATE
AND FOR OTHER PURPOSES.

Deeds of Probate
registered by
Judges of Superior
Court are
valid and binding.

SECTION 1. *The General Assembly of North Carolina do enact,* That wherever any of the counties of this state, the judges of the superior court or the deputy clerks of the superior court mistaking their powers have essayed to take the probate of deeds and the privy examinations of *feme coverts* whose names are signed to such deeds and have ordered said deeds to registration, and the same have been registered, all such probates, privy examinations and registrations so taken and had shall be as valid and binding to all intents and purposes, as if the same had been taken

before or ordered by the probate judge of such county or other proper officer having jurisdiction thereof.

SEC. 2. That this act shall take effect from and after its ratification. When act to be in force

Ratified the 12th day of February, A. D. 1872.

CHAPTER CCI.

AN ACT TO AMEND CHAPTER TEN, SECTION ONE OF THE REVISED CODE CONCERNING AUCTIONS AND AUCTIONEERS IN WASHINGTON COUNTY.

SECTION 1. *The General Assembly of North Carolina do enact*, That chapter ten, section one of the revised code, be amended to read as follows: The commissioners of the county of Washington may annually, after the first day of March, appoint for the term of one year not more than three persons to exercise the trade and business of auctioneer therein, each of whom shall execute bond in the sum of five hundred dollars, payable to the state of North Carolina, with good and sufficient security, to be judged of by the commissioners, conditioned that he will faithfully perform all the duties required of auctioneers. Amendment.

Auctioneers appointed annually. Bond with security given.

SEC. 2. This act shall be in force from and after its ratification. When act to take effect.

Ratified the 12th day of February, A. D. 1872.

CHAPTER CCII.

AN ACT FOR THE BETTER GOVERNMENT OF THE PENITENTIARY, AND FOR OTHER PURPOSES.

WHEREAS, The general assembly is satisfied from the report made by a committee to investigate the building and Preamble.

works connected with the construction of the penitentiary, that the same has not been done according to contracts heretofore entered into for such construction, therefore,

Suspension of building Penitentiary.

SECTION 1. *The General Assembly of North Carolina do enact*, That the building and erection of the penitentiary under the contract heretofore made, be and is hereby suspended.

Inspection of work by practical Architect.

SEC. 2. That the board of directors be authorized and required to employ some practical and skilled architect with a salary not to exceed four thousand dollars, whose duty it shall be to inspect the work now done, and correctly measure the same, and reject and condemn such part of said work as is not according to contract and specifications, and have the same removed, and in the further progress of the work to enforce a strict compliance with the specifications as stated in the original contract; and if it shall be ascertained that the stone work done has been inaccurately estimated and overpayments have been made for such work, the amount overpaid shall be charged against the contractors, Messrs. Coleman Bros., but if the work has been underestimated or measured, then the amount due the contractors for short measurement shall be placed to their credit, to be paid on a final adjudication and settlement with them.

Condemnation of work done not according to contract.

Architect required to give bond.

SEC. 3. That it shall be the duty of the architect mentioned in section two of this act, to enter into good and sufficient bond to be approved by the directors, in the sum of five thousand dollars, payable to the state of North Carolina, for the faithful performance of each and all the duties imposed upon him by this act, and further, that he shall exercise a general supervision of the works, the condition of the convicts, and all other matters under his care.

Former contractors not allowed to resume work.

SEC. 4. That the contractors, Messrs. Coleman Bros., shall not be permitted to resume or prosecute said work until they shall have given a good and sufficient bond, as required by chapter two hundred and thirty-eight, section seven, of the laws of one thousand eight hundred and sixty-eight and one thousand eight hundred and sixty-nine, ratified April twelfth, *anno domin* one thousand eight hundred and sixty-nine,

said bond to be approved by the board of directors; nor shall they be permitted to prosecute said work until they shall have removed and rebuilt at their own expenses all such work as the architect, as provided for in section two of this act, shall reject and condemn as not in accordance with the specification and contract for such work.

SEC. 5. That the sum of fifteen thousand dollars be appropriated out of the funds raised for the penitentiary to the erection of an exterior wall, and temporary workshops, in which to employ convicts, said wall and shops to be done with convict labor, except such work as requires skilled labor.

Sum appropriated for erection wall, &c.

Convict labor required.

SEC. 6. That the board of directors are hereby directed and authorized to receive no iron doors or other material connected with the penitentiary under contracts heretofore made until the same are peeced in the construction of the work from time to time, as it progresses.

Materials for work under former contracts not receivable.

SEC. 7. That in consequence of the failure of the contractors to employ convict labor, according to the contract, it is further enacted that the directors be authorized and directed to deduct twenty-five dollars each from the contract prices for the iron doors.

Deduction of money.

SEC. 8. That the directors are hereby authorized and directed to farm out to railroad companies or other public corporations, each and every able-bodied convict who cannot be employed to advantage on the work above mentioned, on such terms as will best promote the interest of the state, for consideration not less than food and clothing. And the party so hiring shall provide a good and sufficient guard to prevent the escape of such convicts, and shall give bond for their safe keeping and proper treatment and return to the penitentiary on the termination of the contract: *Provided*, That no convict shall be farmed out who has been sentenced on a charge of murder and manslaughter and rape, attempts to commit rape or arson.

Farming out of convicts.

Guard to be provided.
Bond for safe keeping.

Provide.

SEC. 9. That the said directors are hereby authorized and empowered to enlist for a term from one to three years, a guard of men not to exceed fifty in number, to do guard duty, subject to and under such rules and regulations as

Guard enlisted.

Compensation.

govern the United States army, to be controlled and governed by one captain, to be appointed by the board of directors, and subject to their orders, such captain to receive not more than sixty dollars per month, and the men not more than twenty five dollars per month and rations.

Any surplus of money may be applied to the maintenance of convicts.

SEC. 10. That the amount of money raised over and above the fifteen thousand dollars, mentioned in section five of this act for penitentiary purposes, or so much thereof as may be necessary, shall be applied towards the maintenance of the convicts and the government of the penitentiary, and should there be a surplus of money on hand at the expiration of the year, the same shall be held and used in defraying the current expenses of the ensuing year.

Compensation for apprehending escaped convicts.

SEC. 11. The board of directors are hereby authorized to recommend a reasonable compensation to any one for the apprehension and return of any escaped convict to the penitentiary, on which recommendation the governor is authorized to give his warrant on the treasurer for the amount so recommended.

Repealing clause.

SEC. 12. That all laws or parts of laws coming in conflict with this act are hereby repealed.

When act to be in force.

SEC. 13. That this act shall be in force from and after its ratification.

Ratified the 12th day of February, A. D. 1872.

CHAPTER CCIII.

AN ACT TO PREVENT FRAUD IN THE SALE OF COMMERCIAL MANURES.

Trade-mark, name, place of business to be affixed to all commercial fertilizers.

SECTION 1. *The General Assembly of North Carolina do enact*, That all commercial manures and manipulated guanos sold or kept for sale in this state shall have affixed to every bag, barrel or parcel thereof containing fifty pounds or upwards, an especial name, trade mark or device by which

the same may be known or designated, with the name or place of business of the manufacturer or seller, together with a true analysis or specification of the chemical contents, such as soluble bone, phosphate of lime, bone phosphate of lime, alkaline salts and ammonia, and the per centage of each of the above named ingredients contained in such package.

SEC. 2. That any manufacturer or trader who shall sell or offer for sale any such package without having affixed such stamp, impress or card, as prescribed in section first of this act, or who shall fraudulently affix a stamp, impress or card, inconsistent with the requirements of the first section of this act, shall be held personally liable for all damages sustained by any one in the purchase of such manures, and the manure so sold shall be forfeited; and any such commercial manure held by any such trader or manufacturer shall be subject to attachment at the suit of any person damaged in the purchase of any such fertilizer, bearing such name, trade mark or stamp; the amount of such damage to be recovered before any tribunal having competent jurisdiction: *Provided*, That nothing herein contained shall be construed to effect such commercial fertilizers now in the hands of dealers or manufacturers within the state.

Persons fraudulently selling manures to be liable for damages.

Attachment served.

Proviso.

SEC. 3. That any deficiency of the abovementioned ingredients in such fertilizers may be plead in bar of the recovery of any debt or debts contracted for such fertilizers.

Deficiency of ingredients.

SEC. 4. That any person or persons instituting suit against any such manufacturer for such damages, may on the payment of fifteen dollars to the state geologist, cause a full and accurate analysis to be made by him, a certificate of which shall be presumptive evidence of the chemical elements and ingredients contained in the sample of fertilizer so analysed, and of the package or parcel from which such sample was taken.

Analysis made by State Geologist.

SEC. 5. That in all cases where suits are brought and an analysis had and fifteen dollars paid as required in section four of this act, the said fifteen dollars shall be taxed and recovered as a part of the bill of cost against the party cast in such suit.

Taxation and recovery.

Several parties
can join in one
suit.

Jury to ascertain
damages.

Proviso.

When act to be in
force.

SEC. 6. That it shall be lawful for one or more parties in the same county to join in one suit against the manufacturer or trader, and that in entering judgment should there be more than one party damaged, the jury shall in their verdict ascertain the damage to each party so joined in the suit as plaintiff, and a judgment shall be rendered thereon accordingly: *Provided, however,* That the state geologist shall be entitled to fifteen dollars for each separate analysis made for parties to such suit.

SEC. 7. That this act shall be in force from and after its ratification.

Ratified the 12th day of February, A. D. 1872.

CHAPTER CCIV.

AN ACT TO PROVIDE FOR THE CREATION OF CERTAIN TRUST ESTATES.

Property held in
trust.

Property so held
not liable for
debts.

Proviso.

When act to take
effect.

SECTION 1. *The General Assembly of North Carolina do enact,* That it shall and may be lawful for any person by deed or will to convey any property to any other person in trust to receive and pay the profits annually or oftener for the support and maintenance of any child, grand-child or other relation of the grantor, for the life of such child, grand-child or other relation with remainder as the grantor shall provide. And the property so conveyed shall not be liable for or subject to be seized or taken in any manner for the debts of such child, grand-child or other relations whether the same be contracted or incurred before or after the grant: *Provided, nevertheless,* That this act shall apply only to grants or conveyances where the property conveyed does not yield at the time of the conveyance a clear annual income exceeding five hundred dollars.

SEC. 2. This act shall take effect from its ratification.

Ratified the 12th day of February, A. D. 1872.

CHAPTER CCV.

AN ACT IN RELATION TO MOORE AND NASH SQUARE IN THE CITY OF RALEIGH.

SECTION 1. *The General Assembly of North Carolina do enact*, That the board of commissioners of the city of Raleigh shall have power to grade, lay out in walks, plant with trees, shrubbery and flowers, and otherwise adorn Moore Square and Nash Square in said city, so as to make the same an ornament to the city, and to that end they shall have the general charge and management of said square. They may improve in like manner any of the vacant lots belonging to the state within the city limits not otherwise specially appropriated.

Ornamentation of Moore and Nash squares.

Vacant state lots to be improved.

SEC. 2. Nothing herein contained shall be construed to authorize said commissioners to prevent the free access of well behaved persons to said square and lots except at unreasonable hours or for some temporary purpose specially to be designated by the board.

Free access allowed.

SEC. 3. This act shall be in force from its ratification. Ratified the 12th day of February, A. D. 1872.

When act to take effect.

CHAPTER CCVI.

AN ACT TO ALLOW THE COMMISSIONERS OF WARREN COUNTY TO LEVY A SPECIAL TAX.

SECTION 1. *The General Assembly of North Carolina do enact*, That the county commissioners of Warren county be and they are hereby authorized to levy a special tax for the purpose of paying the lawful debt of said county, and completing the buildings of the county poorhouse.

Special tax to be levied.

SEC. 2. That said commissioners shall have power to levy said taxes at the same time and in like manner as other county

Proportion of tax.

taxes are provided by law to be levied, and in the same proportion on all subjects taxed by the state, and shall be collected as other taxes are required by law to be collected and accounted for: *Provided*, That the special tax herein authorized to be levied, shall not exceed in the aggregate six thousand five hundred dollars: *And provided, further*, that in levying this tax the constitutional equation between the property and the poll shall be observed.

Proviso.

Further Proviso.

When act to be in force.

SEC. 3. That this act shall be in force from and after its ratification.

Ratified the 12th day of February, A. D. 1872.

CHAPTER CCVII.

AN ACT TO AMEND SUBDIVISION TWO, SECTION THIRTY-ONE, CHAPTER THREE OF TITLE FOUR, OF THE CODE OF CIVIL PROCEDURE.

Amendment.

SECTION 1. *The General Assembly of North Carolina do enact*, That said subdivision be amended by striking therefrom the words "not negotiable," and that subdivision one of section thirty-four, of the same chapter, shall be construed as referring to the former section as now amended.

When act to be in force.

SEC. 2. This act shall be in force from and after its ratification.

Ratified the 12th day of February, A. D. 1872.

CHAPTER CCVIII.

AN ACT IN FAVOR OF CERTAIN SHERIFFS.

WHEREAS, Under chapter one hundred and twenty-one, Preamble
(121) laws of one thousand eight hundred and sixty-nine and
one thousand eight hundred and seventy, it was made a
misdemeanor, punishable with fine and imprisonment, for
any sheriff, or other officer, to sell the reversionary interest in
any lands included in a homestead until after the termina-
tion of the homestead itself; and whereas, under the advice
of counsel, that said chapter one hundred and twenty-one
was in conflict with the constitution of the state, many
sheriffs have been induced to sell and have sold such re-
versionary interests, and may be now liable to indictment,
although such sale since the passage of said chapter one
hundred and twenty-one are void:

SECTION 1. *The General Assembly of North Carolina do* Section 2 Chapter
enact, That section two of said chapter one hundred and 121 repealed.
twenty-one, so far as it applies to sheriffs who before the
June term, one thousand eight hundred and seventy-one, of
the supreme court, have levied upon or sold any reversionary
interest of any homestead in this state be and the same is
repealed and declared of no force.

SEC. 2. This act shall be in force from and after its ratifi- When act to take
cation. effect.

Ratified the 12th day of February, A. D. 1872.

CHAPTER CCIX.

AN ACT TO AMEND AN ACT CHARTERING THE "JAMESVILLE AND WASHINGTON RAILROAD AND LUMBER COMPANY," PASSED AT THE SESSION ONE THOUSAND EIGHT HUNDRED AND SIXTY-EIGHT AND ONE THOUSAND EIGHT HUNDRED AND SIXTY-NINE OF THE "GENERAL ASSEMBLY" OF NORTH CAROLINA, RATIFIED FEBRUARY, ONE THOUSAND EIGHT HUNDRED AND SIXTY-NINE.

Amendment.

SECTION 1. *The General Assembly of North Carolina do enact*, That section two of said act be amended as follows by adding thereto: That for the purpose of providing funds to enable the company to complete and equip the said road the company shall have power to borrow money by the issue of bonds, signed by the president and countersigned by the secretary of said company, in sums not less than one hundred dollars, at a rate of interest not exceeding ten per cent, the principal and interest payable at such time and place as the president and directory may direct; the bonds so issued not to exceed the sum of three hundred thousand dollars, and to secure the payment of the same and the interest thereon, the said company may execute mortgages and deeds of trust, signed by the president and countersigned by the secretary, attested by the seal of company, conveying its franchises and property, including its road bed, superstruction, real and personal estate of every kind, to the holders of said bonds or to such other person or persons as the said president and directors may select, in trust for them, and the bonds so executed and duly approved and registered in the county of Martin, shall be effectual to vest the property in the trustee or trustees as if the same were proved and registered in every county in which the property of said company so conveyed is situated.

Money raised by issuing bonds.

Rate of interest.

Limitation of bonds.

Mortgages and deeds of trust executed.

When act to be in force.

SEC. 2. This act shall be in force from its ratification.

Ratified the 12th day of February, A. D. 1872.

CHAPTER CCX.

AN ACT TO PROVIDE A COMPILATION OF THE PUBLIC STATUTES.

SECTION 1. *The General Assembly of North Carolina do enact*, That William H. Battle be and he is hereby appointed a commissioner to collate, digest and compile all the public statute laws of the state now in force or in use, including those which may be enacted by this general assembly, distributing them under such titles, divisions and sections, as he may think most convenient and proper, to render the said acts more plain and easy to be understood.

Commissioner.

Compilation of public laws.

SEC. 2. The commissioner shall prepare the said compilation so that the same may be submitted to the next general assembly with such notes and references to the sections that have been the subject of judicial decision fixing the construction of such statutes with a full index in order that the same may be in readiness for publication as soon as the legislature shall order and direct.

Digest of laws to be submitted to next General Assembly.

Full index required.

SEC. 3. The said commissioner shall be allowed until the meeting of the next general assembly to complete the duties assigned him in and by this act, and as a compensation for his services shall be entitled to sell copies of the said work until he shall be paid the sum of fifteen hundred dollars, after which the profits of the sale shall belong to the state.

Compensation.

SEC. 4. This act shall be in force from and after its ratification.

When act to be in force.

Ratified February 12th, A. D. 1872.

CHAPTER CCXI.

AN ACT TO CREATE A SPECIAL COMMISSION.

SECTION 1. *The General Assembly of North Carolina do enact*, That S. L. Fremont, J. M. Worth and W. C. Troy be

Special commission.

Settlement with
reference to Peni-
tentiary con-
tracts.

and are hereby created a special commission with authority to negotiate a settlement with Messrs. Coleman and Bro., with reference to contracts heretofore entered into by them for the stone and brick work in the erection of a penitentiary, such settlement to be based upon the conditions indicated in section two of an act entitled "an act for the better government of the penitentiary, and for other purpose," passed at the special session of the general assembly.

Examination of
work by archi-
tect.

SEC. 2. That no settlement shall be made with said contractors to invalidate their bond until the architect provided for in above recited act, shall have accurately measured and examined the work done, and if the same proves to be in violation of the contract and specifications for such work, the said special commission shall cause to be withheld all reservation now withheld on such work, and are authorized under the advice of the attorney general to institute suit against said contractors for the collection of damages sustained by the state by reason of such violation of and departure from the specifications and contract heretofore entered into by said Coleman Bros.

Suit may be
brought for viola-
tion of contract.

Purchase of tools
machinery, &c.

SEC. 3. That if such or any settlement shall be entered into, the said special commission shall have authority to purchase from said contractors any and all tools, implements and machinery heretofore used by them in the prosecution of said contracts, but the said commission shall not be authorized to pay any consideration or bonus to induce said contractors to surrender or quit contracts already violated by them.

Contractors to
receive no bonus.

When act to take
effect.

SEC. 4. This act shall go into effect immediately.
Ratified the 12th day of February, A. D. 1872.

CHAPTER CCXII.

AN ACT CONCERNING INSANE CONVICTS.

SECTION 1. *The General Assembly of North Carolina do enact*, That whenever any convict of the penitentiary shall be found on examination by the superintendent of the insane asylum, the chairman of the board of directors and the physician to the penitentiary, to be a lunatic or otherwise insane, it shall be lawful to transfer said insane convict from the penitentiary to the state insane asylum, under such rules and regulations as apply to other insane persons: *Provided*, Such convict's term of imprisonment unexpired shall not be less than three months.

Insane convicts to be transferred to the State Asylum.

Proviso.

SEC. 2. This act shall be in force from its ratification. Ratified the 12th day of February, A. D. 1872.

When act to take effect.

CHAPTER CCXIII.

AN ACT TO PRESCRIBE THE PRACTICE AND PROCEDURE IN ACTIONS BY CREDITORS OF DECEASED PERSONS AGAINST THEIR PERSONAL REPRESENTATIVES.

SECTION 1. *Creditor may bring a special proceeding:*

The General Assembly of North Carolina do enact as follows: Any creditor of a deceased person may, within the times prescribed by law, prosecute a special proceeding in his own name and in behalf of himself and all other creditors of the deceased without naming them, against the personal representative of the deceased, to compel him to an account of his administration, and to pay the creditors what may be payable to them respectively.

The personal representative of a deceased person must be compelled to account for his administration.

SEC. 2. *By what rules governed:*

The action shall be governed by the rules of practice pre- Rules.

scribed for special proceedings, except so far as the same are modified by this act.

SEC. 3. *Summons when and where returnable :*

Limitation of time.

The summons shall be returnable before the clerk of the superior court of the county in which letters testamentary or administration were granted, and on a day not less than forty nor more than one hundred days from the issuing thereof, and not less than twenty days after the service thereof.

SEC. 4. *On issuing of summons clerk to advertise :*

Creditors to be advertised for.

On issuing of the summons, the clerk shall advertise for all creditors of the deceased to appear before him on or before the return day and file the evidences of their claims.

SEC. 5. *Where published and for what time :*

Manner of advertising.

The advertisement shall be published at least once a week for not less than five weeks in some newspaper which may be thought by the clerk the most likely to inform all the creditors, and shall also be posted at the courthouse door for not less than thirty days. If, however, the estate does not exceed three thousand dollars in value, and the creditors are supposed by the clerk all to reside within the county or to be known, publication in a newspaper may be omitted, and in lieu thereof the advertisement shall be posted at four public places in the county, besides the court house door. Proof of personal service on a creditor or that a copy of the advertisement was sent to him by mail at his usual address shall be as to him equivalent to publication.

Advertisements may be posted.

SEC. 6. *Creditors to name an agent to receive notices, &c.:*

Claims of creditors filed and endorsed.

The creditors of the deceased on or before the required day shall file with the clerk, the evidences of their demands, and every creditor on filing such claim, shall endorse thereon or otherwise name some person or place within the town in which the court is held, upon whom or where notices in the cause may be served or left, otherwise he shall be deemed

to have notice of all motions, orders and proceedings in the cause filed or made in the clerk's office.

SEC. 7. *How demands filed shall be evidenced :*

If the evidence of the demand be other than a judgment, or some writing signed by the deceased, it shall be accompanied by the oath of the creditor, or if he be non-resident or infirm or absent, or in any other proper case of some witness of the transaction, or of some agent of the creditor, that to the best of his knowledge and belief the claim is just and that all due credits have been given.

How evidence must be taken.

SEC. 8. *Representative to file list of demands made on him :*

On the day of his appearance the personal representative shall on oath give to the clerk a list of all the claims against the deceased of which he has received notice or has any knowledge with the names and residences of the claimants to the best of his knowledge and belief; and if any person so named shall have failed to file evidence of his claim, the clerk shall immediately cause a notice requiring him to do so to be served on him, which may be done by posting the same directed to him at his usual address.

List of claims to be given in to Clerk on oath.

SEC. 9. *Clerk to exhibit list of demands and evidences to representative :*

On the day fixed for the appearance of the personal representative the clerk shall exhibit to him a list of all the claims filed in his office with the evidences thereof.

List of claims presented by Clerk.

SEC. 10. *Representative to admit or deny demands within five days :*

Within five days thereafter the defendant shall state in writing on said list, or on a separate paper which of said claims he disputes in whole or in part. The clerk shall then notify the creditors, as above provided, that his claim is disputed and the creditor shall thereupon file in the office

Disputation of claims.

of the clerk a complaint founded on his said claim, and the pleadings shall be as in other cases.

SEC. 11. *What clerk to do when issues joined :*

Duty of Clerk.

If the issues joined be of law, the clerk shall send the papers to the judge of the superior court for trial, as is provided in by the code of civil procedure in like cases. If the issues shall be of fact, the clerk shall send so much of the record as may be necessary to the next term of the superior court for trial.

SEC. 12. *Who shall pay costs of issues :*

If any personal representative shall deny the liability of his deceased upon any claim evidenced as is provided in section seven (7) of this act, and the issue shall finally be decided against him, the costs of the trial shall be paid by him personally, and not allowed out of the estate, unless it shall appear that he had reasonable cause to contest the claim and did so *bona fide*.

SEC. 13. *Failure of representative to appear, what may be done :*

Non appearance of representative.

If the personal representative shall fail to appear on the return day, the clerk or the judge of the superior court may permit him afterward to appear and plead on such terms as may be just.

SEC. 14. *Clerk to proceed to state account :*

Clerk to account for the dealings of representative.

Immediately after the return day the clerk shall proceed to hear such evidence as shall be brought before him, and to state an account of the dealings of the personal representative with the estate of his deceased according to the course of his court.

SEC. 15. *Clerk to prepare and sign final report :*

Clerk may prepare report.

After the clerk shall have stated the account and prepared his report, he shall notify all the parties to examine and except to the same. Any party may then except to the

same in whole or in part. The clerk shall then pass on the exceptions and prepare and sign his final report and judgment, of which the parties shall have notice.

SEC. 16. *Times of notice, &c., may be enlarged by clerk or judge :*

If no length of notice, or no time for the doing of an act, is stated in this act, the time shall be reasonable, and in any case it may be enlarged by the clerk from time to time, or by the judge of the superior court, on application to him or on appeal to him from the clerk.

Appeal to Judge Superior Court for enlargement of time.

SEC. 17. *Of appeals to superior court, what required :*

Any party may appeal from a final judgment of the clerk to the judge of the superior court in term time, or giving an undertaking with surety, or making a deposit, to pay all costs which shall be recovered against him. If any creditor shall appeal and give such security, his appeal shall be deemed an appeal by all who are damaged by the judgment, and no other creditor shall be required to give any undertaking.

Appeal from final judgment.

Undertaking given with security.

SEC. 18. *Clerk to file papers on appeal :*

On an appeal the clerk shall file his report and judgment and all the papers in his office as clerk of the superior court, and enter the case on his trial docket for the next term.

Papers of appeal to be filed.

SEC. 19. *Creditors in prior classes may docket their judgments :*

If the exceptions and questions from the decision on which the appeal is taken affect only the creditors in one or more classes, the creditors in the prior classes by the leave of the clerk, or of the judge of the superior court, may docket their judgments and issue execution thereon.

Creditors in prior class s may issue executions.

SEC. 20. *If assets sufficient to pay any class of debts :*

If upon taking the account it shall be admitted, or be found without appeal, that the defendant has assets suffi-

Sufficiency of assets for payment of claims.

cient, after the deduction of all proper costs and charges, to pay all the claims which have been presented of any one or more of the classes, the clerk shall give judgment in favor of the creditors whose debts of such classes have been admitted, or adjudged by any competent court; and if any claim in any preferred classes in litigation, the amount of such claim with the probable costs of the litigation, shall be left in the hands of the personal representative, and not carried to the credit of any subsequent class until the litigation is ended.

SEC. 21. *If assets insufficient to pay all claims in any class :*

Insufficiency of assets how remedied.

If the assets be insufficient to pay in full all the claims of any class, the amounts thereof having been found or admitted as aforesaid, the clerk may adjudge payment of a certain part of such claims, proportionate to the assets applicable to debts of that class.

SEC. 22. *What judgments to declare :*

Declaration of judgments.

All judgments given by a clerk of a superior court as probate judge against a personal representative for any claim against his deceased shall declare : 1, the certain amount of the creditor's demand ; 2, the amount of assets which the personal representative has applicable to such demand ; execution may issue only for this last sum with interest and costs.

SEC. 23. *No judgments to fix assets, unless, &c :*

Only Clerk as Probate judge to fix assets.

No judgment of any court against a personal representative shall fix him with assets, except a judgment of the clerk as probate judge, rendered as aforesaid, or the judgment of some appellate court rendered upon an appeal from such judgment. All other judgments shall be held merely to ascertain the debt, unless the personal representative shall by pleading expressly admit assets.

SEC. 24. *Form and effect of execution :*

All executions issued upon the order or judgment of the clerk as probate judge, or of any appellate court, against any personal representative shall run against the goods and chattels of the deceased, and if none, then against the goods and chattels, lands and tenements of the representative. And all such judgments docketed in any county shall be a lien on the property for which execution is adjudged as fully as if it were against him personally.

Executions may be served on personal property.

SEC. 25. *Report evidence of assets only on the day to which it relates :*

The account and report and adjudication by the clerk or any appellate court, shall not be evidence as to the assets except on the day to which such adjudication relates.

SEC. 26. *Affidavit of assets afterwards come to hand, proceedings on :*

Any creditor may afterwards, on filing an affidavit, by himself or his agent, that he believes that assets have come to the hands of the personal representative since that day, and on giving an undertaking, with surety, or making a deposit for the costs of the personal representative, may sue out a summons against him alleging subsequent assets, and the proceedings thereon shall be as is hereinbefore prescribed, so far as the same may be necessary.

Affidavit of assets to be filed.

Summons may be sued out.

SEC. 27. *If personal assets insufficient, and lands :*

If it shall appear at any time during or upon or after the taking of the account of a personal representative that his personal assets are insufficient to pay the debts of the deceased in full, and that he died seized of real property, it shall be the duty of the clerk at the instance of any party, to issue a summons in the name of the personal representative or of the creditors generally, to the heirs, devisees and others in possession of the lands of the deceased, to appear before him on a certain day, not less than twenty days after

Summons to be issued for the appearance of the heirs of deceased.

Limitation of time

service of the summons, and show cause why said lands should not be sold.

SEC. 28. *Proceedings on return of summons :*

Proceedings to be directed as in other like cases.

Upon the return of the summons the proceedings shall be as is directed in other like cases.

SEC. 29. *Act not to apply to probates; &c., before first July, one thousand eight hundred and sixty-nine :*

Application to cases.

This act shall apply only to cases where the grant of letters of collection or of probate or of administration shall have issued on or after the first day of July, one thousand eight hundred and sixty-nine.

SEC. 30. *Proceedings on probates, &c., before first July, one thousand eight hundred and sixty-nine :*

Regulation of proceedings on probates.

Proceedings against other personal representatives shall be regulated by the existing law. In all cases where an action has been or shall be brought against a personal representative to recover a claim against his deceased; if in the superior court, that court shall proceed according to its course; if before a justice of the peace, and the representative has pleaded or shall plead that he has fully administered, the justice shall find the debt and return the papers to the next term of the superior court in order that the issue in respect to the assets may be there tried and determined according to the course of the court.

SEC. 31. *When this act to go into effect :*

When act to go into effect.

This act shall go into effect from its ratification: *Provided*, That all proceedings instituted within ninety days after its ratification and coming within its provisions shall be amended and made conformable thereto without costs to either party at any time within twelve months after its ratification.

Ratified the 12th day of February, A. D. 1872.†

CHAPTER CCXIV.

AN ACT TO AMEND "AN ACT TO PROMOTE AND ENCOURAGE THE PLANTING OF OYSTERS AND CLAMS, CHAPTER THIRTY-THREE, ACT OF ASSEMBLY ONE THOUSAND EIGHT HUNDRED AND FIFTY-EIGHT AND ONE THOUSAND EIGHT HUNDRED AND FIFTY-NINE.

SECTION 1. *The General Assembly of North Carolina do enact*, That the jurisdiction and power conferred by said act upon the courts of please and quarter sessions, be and the same are hereby conferred on the superior courts of the state. Jurisdiction.

SEC. 2. That the word "white" be stricken from the said act whenever it may relate to inhabitants. Word "white" rejected.

SEC. 3. That section two of said act be so amended that the petitioner or person applying for license shall have the right to include any lot or farm or bed any number of acres not exceeding ten in such lot, farm or bed.

SEC. 4. That sections five and six of said act be and the same are hereby repealed. Repealing clause

SEC. 5. That this act shall take effect and be in force from and after its ratification. When act to take effect.

Ratified the 9th day of February, A. D. 1872.

PUBLIC RESOLUTIONS
OF THE
STATE OF NORTH CAROLINA.

PUBLIC RESOLUTIONS.

OF THE

STATE OF NORTH CAROLINA,

SESSION 1871-72.

RESOLUTION MAKING TEMPORARY PROVISION FOR STATIONERY.

Resolved, by the senate, the house of representatives concurring, That the secretary of state be authorized to purchase and furnish for the use of the senate and the house of representatives, such stationery as the clerk of the senate and the clerk of the house of representatives shall certify to be necessary, until the regular annual requisition is filled.

Stationery to be furnished for the Senate and House of Representatives by Sec. State.

Ratified the first day of December, A. D. 1871.

RESOLUTION CONCERNING THE MONEYS RECEIVED BY THE PUBLIC TREASURER UNDER REVENUE ACT OF ONE THOUSAND EIGHT HUNDRED AND SEVENTY-ONE.

Resolved by the house of representatives, the senate concurring, That the public treasurer be directed not to apply any money received or to be received from the sheriffs of the state under an act entitled an act to raise revenue, ratified March, *anno domini* one thousand eight hundred and seventy-one, to the repayment of moneys borrowed under

Money not to be applied to certain payments.

chapter nineteen, acts of one thousand eight hundred and seventy and one thousand eight hundred seventy-one.

When resolution
to be in force.

This resolution shall take effect from and after its ratification.

Ratified the 1st day of December, A. D. 1871.

RESOLUTION CONCERNING THE TAX LISTS OF HARNETT COUNTY.

Preamble.

WHEREAS, It appears from the memorial, signed by the commissioners of Harnett county, that there are various errors in the tax lists of said county, and now returned to the auditor's office; therefore,

Tax list to be re-
turned for correc-
tion.

Resolved by the house of representatives, the senate concurring, That the said tax list be returned to the commissioners of Harnett county for correction, and that the tax collector of said county, after paying into the treasurer's office five-sixths of the sum now appearing due on said tax list, be allowed thirty days from the passage of this resolution in which to make a final settlement with the treasurer according to the corrected list.

Time of final
settlement.

When to take
effect.

This resolution shall be in force from and after its passage.
Ratified the 1st day of December, A. D. 1871.

RESOLUTION IN FAVOR OF W. E. PIERCY, SHERIFF OF YANCEY COUNTY.

Preamble.

WHEREAS, W. E. Piercy, sheriff of Yancey county, was, by reason of serious illness during the months of September and October, prevented from collecting the state taxes due from said county for the year *anno domini* one thousand eight hundred and seventy-one; therefore,

1st. *Resolved by the house of representatives, the senate concurring*, That said W. E. Piercy, sheriff of Yancey county, be allowed until the first day of January, one thousand eight hundred and seventy-two, to collect and settle said taxes with the treasurer of the state, and that he be relieved until that time from all penalties, fines, &c., for his failure to settle the same as now required by law.

Time allowed the sheriff to collect and settle taxes.

Relief granted.

2nd. *Resolved*, That these resolutions be in force from their ratification.

When resolution to be in force.

Ratified the 6th day of December, A. D. 1871.

RESOLUTION CONCERNING THE PRINTING OF CERTAIN PUBLIC DOCUMENTS.

Resolved by the house of representatives, the senate concurring, That the secretary of state be directed not to allow the auditor's report or constitution of the state to be published with the public laws as heretofore.

Auditor's report or constitution of state not to be published with the public laws.

Ratified the 8th day of December, A. D. 1871.

RESOLUTION TO AUTHORIZE THE ATTORNEY GENERAL TO SUE OUT WRIT OF HABEAS CORPUS FOR ALLEN BETTIS.

Resolved by the senate, the house of representatives concurring, That the message of his excellency, the governor, in relation to the arrest and detention of Allen Bettis, a citizen of this state, be referred to the attorney general, with authority to apply to a judge of the supreme court of the United States for a writ of *habeas corpus*, to test the legality of the imprisonment of the citizen named in this communication, or any other citizen of the state arrested by a military force without legal authority.

Writ of Habeas Corpus to be served.

Ratified the 13th day of December, A. D. 1871.

RESOLUTION TO PAY CERTAIN WITNESSES IN THE LATE IMPEACHMENT TRIAL OF W. W. HOLDEN.

Payment of witnesses in impeachment trial.

The senate of North Carolina do resolve, That the public treasurer be and he is hereby authorized and directed to pay to the following persons, witnesses in the late impeachment trial of Gov. W. W. Holden, the amounts due them for their attendance thereon as ascertained by the tickets sworn to before the clerk of the senate, to-wit: Thomas J. Oldham, thirteen dollars; A. Hedgpeth, fifteen dollars and fifty cents; Lewis Lee, (colored,) eleven dollars; Hugh B. Guthrie, eleven dollars; S. S. Wild, twenty-two dollars and fifty cents; the same to be paid out of any moneys in the treasury not otherwise disposed of.

Ratified the 13th day of December, A. D. 1871.

RESOLUTION IN FAVOR OF J. D. CAMERON.

Continuation of John D. Cameron in office.

Resolved by the house of representatives, the senate concurring, That J. D. Cameron, clerk to the commission to inquire into certain charges of fraud and corruption, be continued in his said office to superintend the printing of the report and accompanying documents of said commission, and that he be paid fifty dollars for his said extra service.

Compensation,

Ratified the 13th day of December, A. D. 1871.

RESOLUTION OF INSTRUCTION TO THE PUBLIC TREASURER.

Claims now outstanding for turnpike work not to be paid.

Resolved by the house of representatives, the senate concurring, That the public treasurer be and he is hereby instructed and directed not to pay any warrant, certificate,

claim or claims whatsoever, which are now outstanding for work purporting to have been done in pursuance of an act entitled an act to establish a turnpike road from the head of North river, Carteret county, to the head of Adams' creek, in Craven county, North Carolina, ratified the eleventh day of March, *anno domini* one thousand eight hundred and sixty-nine.

Resolved, That the clerk of this house be directed to furnish a copy of this resolution to the public treasurer at as early a date after ratification as practicable.

Copy of resolution to be sent Public Treasurer.

Resolved, That this resolution be in force from and after its ratification.

When resolution to take effect.

Ratified the 13th day of December, A. D. 1871.

RESOLUTION COMPLIMENTARY TO COMMODORE MATTHEW F. MAURY.

WHEREAS, The general assembly of North Carolina has received with great pleasure and satisfaction the address and communications of Commodore Matthew F. Maury respecting international meteorological observations and reports or essays, and having given the subject-matter the consideration so eminently due this distinguished man of science from whom it originated,

Preamble.

Be it resolved by the general assembly of North Carolina That we cordially endorse and approve of the propositions of Commodore Maury, and ask leave most respectfully to recommend them to the attention, consideration and approval of the congress of the United States.

Approval of propositions.

Be it further resolved, That our gratitude and thanks are due to Commodore Matthew F. Maury for his eminent and distinguished labors in science, by which he has so greatly benefitted the commerce of his own country and that of the world, and merited the title of a public benefactor.

Thanks accorded.

Copy of resolutions sent to U. S. Congress.

Be it also resolved, That a copy of these resolutions be transmitted to our senators and representatives in congress with a request that they present them to the congress of the United States, and that a copy also be transmitted to Commodore Maury.

Ratified the 13th day of December, A. D. 1871.

RESOLUTION IN REGARD TO PUBLIC PRINTING.

Preamble.

WHEREAS, one James H. Moore, did on the thirteenth day of December, *anno domini* one thousand eight hundred and seventy, through a joint committee of both houses, contract with the general assembly of North Carolina for the public printing for one year; *and whereas*, a copy of said contract was filed in the auditor's office where the accounts of the said James H. Moore were to be passed upon before payment; *and whereas*, it is charged that a part of the accounts of the said James H. Moore were by him improperly rendered, and by the auditor improperly audited; now therefore,

Committee to investigate accounts of public printer.

1st. *Resolved*, That a joint committee of two on the part of the senate and three on the part of the house, be appointed, who shall, together with the auditor of the state, have the account with the public printer under his written contract, made up in full, using for the method of computation what is known as the *quad em*.

Selection of three practical printers to render justice.

2d. *Resolved*, To enable said committee to do full justice to all parties, they may engage the services of three impartial practical printers, one to be selected by the committee, one by the auditor, and one by the contractor, any two of whom may make up said account under the supervision of the committee and auditor. The committee shall report their proceedings to the house.

When resolution to be in force.

3d. That this resolution take effect from its passage.

Ratified the 16th day of December, A. D. 1871.

RESOLUTION TO PAY CERTAIN WITNESSES AND A MESSENGER.

1st. *Resolved by the house of representatives, the senate concurring*, That the auditor be and he is hereby instructed to audit the accounts of Joseph H. Wilson, H. W. Guion, C. Dowd, Nathaniel Boyden, Rufus Barringer and Wm. P. Bynum and William H. Bayley, witnesses summoned by the house of representatives to give evidence before a special committee of the house, in the investigation of the charges against Judge George W. Logan: *Provided*, The allowance shall not exceed one dollar and a half per day, and ten cents per mile for distance travelled.

Accounts of witnesses to be audited.

Proviso.

2d. *Resolved further*, That he is instructed to audit the account of George D. Miller, messenger to summon said witness, for the amount of fifty dollars, and the treasurer is hereby authorized and instructed to pay said accounts.

Account audited for messenger to summons.

SEC. 3. This resolution shall be in force from and after its passage.

When resolution to be in force.

Ratified the 18th day of December, A. D. 1871.

RESOLUTION IN REGARD TO A RECESS.

SECTION 1. *Resolved by the house of representatives, the senate concurring*, That this general assembly take a recess from and after Friday, the twenty-second of this month, until the second of January, one thousand eight hundred and seventy-two: *Provided*, That no member shall be entitled to any *per diem* during the time of the recess.

Recess taken by general assembly.

Proviso.

SEC. 2. That the resolution adjourning from Saturday, the twenty-third December, to Tuesday, the twenty-sixth, is hereby rescinded.

Resolution rescinded.

Ratified the 21st day of December, A. D. 1871.

RESOLUTION EXTENDING THE TIME OF H. W. MAYS, SHERIFF
ALEXANDER COUNTY, TO SETTLE WITH COUNTY TREASURER.

Extension of
time allowed for
collecting taxes.

Resolved, That H. W. Mays, sheriff of Alexander county, be allowed until the first day of July, one thousand eight hundred and seventy-two, to collect the taxes of said county and settle with the public treasurer.

Ratified the 5th day of January, A. D. 1872.

RESOLUTION IN FAVOR OF HON. JOHN M. CLOUD, JUDGE OF THE
EIGHTH JUDICIAL DISTRICT.

Preamble.

WHEREAS, by an exchange of circuits, John M. Cloud, judge of the eighth judicial district, was assigned to hold the fall term of the superior courts of the twelfth judicial district for one thousand eight hundred and seventy-one; *and whereas*, on account of a protracted trial of an indictment for a capital crime, the term of the court for Henderson county was necessarily extended beyond two weeks so that it was impossible for the said judge to reach the county seat of Swain county in time to hold court in said county; *and whereas*, the said judge made an effort to reach said county, but was informed while on his way, that the sheriff of said county had adjourned said court until the time for its next regular term; therefore,

No deduction
made from salary.

SECTION 1. *The general assembly of North Carolina do resolve*, That the treasurer be and he is hereby directed not to make any deduction from the salary of the said judge on account of his failing to hold the said court of Swain county.

When resolution
to take effect.

SEC. 2. This resolution shall take effect from its ratification.

Ratified the 6th day of January, A. D. 1872.

RESOLUTION IN REGARD TO THE LEASE OF THE NORTH CAROLINA RAILROAD.

SECTION 1. *Resolved by the senate, the house of representatives concurring,* That a joint committee consisting of five members of the house and three senators, be appointed to inquire into and report all facts and circumstances in regard to the lease of the North Carolina Railroad to the Richmond and Danville Railroad Company; whether the old board of directors had any power or authority to make the said lease; whether any member of said board was reappointed as director by Governor Caldwell; whether any of said board held the appointment of state proxy from Governor Caldwell; whether any member of said board had or has any connection directly or indirectly with the suit of Stafford against the president of the North Carolina Railroad and others, in the United States Circuit Court; what is the present condition of the said suit and the injunction obtained therein; whether any counsel was employed on the part of the state of North Carolina, or the old board of directors to inquire into the sufficiency of said lease to protect the interest of said state; whether any advertisement was made in regard to leasing said road; whether any offer was made for any portion of said road, and at what price; what were the receipts of said road from all sources for the fiscal year ending May thirty-first, one thousand eight hundred and seventy-one; what the ordinary expenses of operating said road during said year; what extraordinary expenses during the same period; what increase over the preceding year in expenses; what is the debt of said company; what portion of said debt is required to be paid on the first of January of each year; what are the assets of said company; what portion consists of debts due from insolvent agents; what portion of claims against the state of North Carolina for transportation of Kirk's troops or expenses connected with said command; what debt is still due by loan of one thousand eight hundred and fifty-nine, or unpaid dividends; whether

Commissioners appointed to enquire into facts relating to lease of North Carolina Railroad.

the Richmond and Danville Railroad Company is a solvent corporation ; whether it has been paying dividends ; whether any injunction has been obtained against the board of directors appointed by Governor Caldwell ; whether any sum of money or other consideration above the sum of two hundred and sixty thousand dollars has been paid or agreed to be paid to any person in this state or out of it, for the purpose of procuring the lease, or in any way connected with it ; whether the old board of directors have appropriated any sum of money for the purpose of defending said lease, or in connection with the suit of Stafford in United States Circuit Court ; whether any money has been paid or invested by any person in North Carolina in any way or manner for the purpose of defending the said lease ; and to inquire into any other matter connected with said lease in any shape or form that in their opinion would tend to throw light upon the subject, or be of service to the state of North Carolina, and said committee be invested with all powers heretofore conferred on the commission composed of W. M. Shipp, J. B. Batchelor and J. G. Martin, for the purpose of this investigation ; and that the said committee be instructed to report to the general assembly as early as practicable consistent with a full discharge of the duties herein enjoined.

SEC. 2. This resolution shall be in force from its ratification.

Ratified the 6th day of January, A. D. 1872.

RESOLUTION OF INSTRUCTION TO THE TREASURER.

1st. Resolved by the senate, the house of representatives concurring, That the treasurer be instructed to pay out the funds now in the treasury belonging to the Sparta and Bakersville, and Marion and Asheville, and Hickory Station and Patterson Turnpike Companies upon the proper vouchers to be filed by the first day of May, one thousand

Power vested in committee.

Report made to general assembly,

When resolution to take effect.

Funds to be paid out belonging to Turnpike Companies.

eight hundred and seventy-two, *pro rata* in proportion as set apart by the appropriating act, where services have been rendered: *Provided*, That in this distribution of the fund, the amounts heretofore paid shall be counted in the distribution of the *pro rata* shares. Proviso.

2d. This resolution to take effect from and after its passage. When resolution to be in force.
Ratified the 9th day of January, A. D. 1872.

RESOLUTION IN FAVOR OF W. H. BATTLE AND D. G. FOWLE.

1st. *Resolved by the house of representatives, the senate concurring*, That the treasurer of the state be and he is hereby directed to pay to W. H. Battle and D. G. Fowle, counsel employed by the president of the senate and speaker of the house, each two hundred dollars for services rendered in a suit of one Stafford, of the state of Maryland, instituted in the federal court against the president of the senate and the speaker of the house, to restrain them from obeying a law of the state. Compensation for counsel employed by president of Senate and Speaker of House.

2d. This resolution shall be in force and effect from and after its ratification. When resolution to be in force.

Ratified the 18th day of January, A. D. 1872.

RESOLUTION IN FAVOR OF LEWIS TICKLE.

Resolved, The public treasurer be instructed to pay out of any moneys not otherwise appropriated, the sum of fourteen dollars and ninety cents (\$14.90), to discharge of his ticket for attendance as a witness in the late impeachment trial of Governor W. W. Holden. Compensation for witness in impeachment trial.

Ratified the 18th day of January, A. D. 1872.

JOINT RESOLUTION ON ADJOURNMENT.

Adjournment of
general assembly.

Resolved by the senate, the house of representatives concurring, That the general assembly do adjourn *sine die* at twelve o'clock m., on Wednesday, the thirty-first day of January, one thousand eight hundred and seventy-two.

Ratified the 19th day of January, A. D. 1872.

RESOLUTION IN REGARD TO THE MANAGEMENT OF THE PENITENTIARY.

Select Committee

Resolved by the house of representatives, the senate concurring, That a joint select committee to consist of two on the part of the senate and three on the part of the house, be appointed whose duty it shall be to inquire and report to this general assembly as early as practicable :

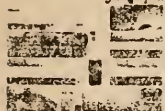
First. Whether the board of directors have ordered the work on the penitentiary as contracted for by the Coleman Brothers, to be discontinued, and if so, for what reason, and by what authority.

Second. Whether there has been any violation of the ninth section of the act of one thousand eight hundred and seventy and one thousand eight hundred and seventy-one, chapter one hundred and ninety-one, by the board of directors, or any one of them, in contracting for supplies for the penitentiary, directly or indirectly.

Third. Whether food, unwholesome in quality and insufficient in quantity, was furnished to the convicts during the summer of one thousand eight hundred and seventy one ; what was the character of the food so furnished, and who is responsible therefor.

Fourth. Whether during the same period the convicts were properly clothed, and at what extent, and in what particulars their clothing was insufficient.

Enquiries into the
management of
Penitentiary.



Fifth. Whether since the third Monday of April, one thousand eight hundred and seventy-one, the health of the convicts has been endangered or impaired for the want of proper and sufficient food and clothing, and if so, to what extent.

Sixth. Whether under the management of the present board of directors, the salaries of the deputy warden, steward and physician, have been increased, and the pay of the guards and overseers diminished, and if so, what reason was there for these changes and what the reason for them.

Resolved, further, That the committee have power to send Power of committee. for persons and papers, and to take testimony under oath.

Ratified the 23d day of January, A. D. 1872.

RESOLUTION TO PROVIDE ADDITIONAL AID FOR THE ENROLLING CLERK.

Resolved by the senate, (the house of representatives concurring, Aid allowed enrolling clerk. That the enrolling clerk be and he is hereby allowed to employ such aid as may be necessary to enable him to finish up the business of his office by the close of the session, allowing for such services three dollars per day Compensation. while actually engaged at such service.

Resolved, That this resolution shall take effect from its When resolution to take effect. ratification.

Ratified the 23d day of January, A. D. 1872.

RESOLUTION FOR THE RELIEF OF T. F. BAXTER, SHERIFF OF CURRITUCK COUNTY, AND A. MURRAY, SHERIFF OF ALAMANCE COUNTY.

Resolved by the general assembly of North Carolina, Time allowed Sheriffs for settlement. That T. F. Baxter, sheriff of Currituck county, and A. Murray, sheriff of Alamance county, be and they are hereby allowed

until the first day of March, one thousand eight hundred and seventy-two, in which to settle with the public treasurer of their counties, respectively, for taxes due the same for the year one thousand eight hundred and seventy-one.

Penalties to be removed.

Resolved, That if said taxes are paid on or before the said first day of March, one thousand eight hundred and seventy-two, all the penalties incurred by the said T. F. Baxter and A. Murray, in not settling said taxes, shall be removed and of no effect.

When resolution to take effect.

This resolution shall take effect from and after its ratification.

Ratified the 24th day of February, A. D. 1872.

RESOLUTION OF INSTRUCTION AND REQUEST TO NORTH CAROLINA SENATORS AND REPRESENTATIVES IN CONGRESS.

Congress of U. S. applied to for an appropriation to make improvements on Dismal Swamp Canal.

The general assembly of North Carolina do resolve, That our senators in congress be instructed, and our representatives requested to urge the passage by the congress of the United States, of an appropriation sufficient to widen the Dismal Swamp canal to sixty feet, and increase its depth to eight feet, and so widen and adjust the locks as to admit as large vessels as will carry full freight on a canal of that width and depth.

Ratified the 25th day of January, A. D. 1872.

RESOLUTION IN FAVOR OF W. E. ANDERSON.

Compensation for W. E. Anderson.

Resolved, That the state treasurer pay to William E. Anderson, of Raleigh, the sum of fifty dollars out of any money in the treasury not otherwise appropriated, for services rendered the committee on the insane asylum, ses-

sion one thousand eight hundred and sixty-six and one thousand eight hundred and sixty-seven.

Ratified the 25th day of January, A. D. 1872.

RESOLUTION SUPPLEMENTAL TO A RESOLUTION CONCERNING THE PAYMENT OF THE FUNDS IN THE TREASURY COLLECTED ON ACCOUNT OF THE MARION AND ASHEVILLE TURNPIKE COMPANY, RATIFIED NINTH JANUARY, ONE THOUSAND EIGHT HUNDRED AND SEVENTY-TWO.

Resolved, That upon application to the auditor or by the holders of warrants drawn on the special fund collected on account of the Marion and Asheville Turnpike Company and presentations of the same, the auditor shall give his warrant on the state treasurer in each case for the amount *pro rata* to which the holder may be entitled, and the treasurer shall pay the same. The auditor shall endorse on the original warrant the amount allowed on the same, to whom allowed, and the date of allowance.

Payment of funds collected for Turnpike.

Endorsement of warrant.

This resolution shall be in force from and after its ratification.

When resolution to take effect.

Ratified the 25th day of January, A. D. 1872.

RESOLUTION OF INSTRUCTION TO THE COMMITTEE TO AUDIT THE STATE PRINTER'S ACCOUNT.

WHEREAS, This legislature is pledged to a rigid economy in public affairs, and *whereas*, in fulfillment of that pledge, it has moved steadily forward to correct abuses and sustain the right without regard to friend or foe, and *whereas*, it is suggested that the same error will be found in the counting of printing of the public laws of one thousand eight hun-

Preamble.

dred and sixty-nine and one thousand eight hundred and seventy, as was found in the accounts of the public printer for one thousand eight hundred and seventy and one thousand eight hundred and seventy-one ; therefore,

Measurement.

Resolved, That the joint committee to audit the account of the public printer, be and they are hereby instructed, with the assistance of their three practical printers, to investigate and ascertain by what measure the laws of one thousand eight hundred and sixty-nine and one thousand eight hundred and seventy, and other printing for that year, were measured, and if the same were not measured by the *quad em*, then to ascertain what amount of money was paid to the state printer for that year, more than he ought to have received.

When resolution
to be in force,

This resolution shall be in effect from and after its ratification.

Ratified the 27th day of January, 1872.

RESOLUTION IN RELATION TO ADJOURNMENT.

Resolution rescinded.

The senate do resolve, the house of representatives concurring, That the joint resolution heretofore adopted by both houses to adjourn on Wednesday, January thirty-first, one thousand eight hundred and seventy-two, be and the same is hereby rescinded.

Adjournment.

Resolved, further, That the legislature do adjourn on Wednesday, the seventh day of February, one thousand eight hundred and seventy-two, at twelve m.

Ratified the 30th day of January, A. D. 1872.

RESOLUTION RELATING TO THE CAPE FEAR HARBOR.

WHEREAS, It appears manifestly the duty of the state of North Carolina, as well as her best interests, to provide, as far as practicable, a port of export and import within her own borders, thereby avoiding commercial vassalage to neighboring states, and securing to her citizens all the benefits arising from an export and import trade; and

Preamble.

WHEREAS, This general assembly is assured that the Cape Fear river once possessed a harbor valuable to the state and valuable to the general government, which has been materially damaged [by long neglect and delay in repairing an accident and in the removal of obstructions of defence made prior to the revolutionary war; and

WHEREAS, This general assembly is clearly of opinion that the removal of said obstructions and repairing said damages, so as to restore the bar and harbor to its original condition, comes within the province of the general government alone:

Therefore, be it resolved, That this general assembly respectfully invite the attention of the congress of the United States, now in session, to this subject, and request the adoption of prompt and efficient means for arresting further damage, and of restoring Cape Fear harbor to its original condition.

Congress called upon to restore the harbor of Cape Fear River.

Resolved, That copies of this preamble and resolutions be transmitted by the governor of the state to our senators and representatives in congress, requesting them to urge upon that body the necessity of making the necessary arrangements for the restoration of Cape Fear harbor.

Copies of resolution to be forwarded to congress.

Ratified the 30th day of January, A. D. 1872.

RESOLUTION IN FAVOR OF CHARLES ABRAMS.

Resolved by the house of representatives, the senate concurring, That the public treasurer be and he is hereby directed

Compensation
for night watch-
man.

to pay to Charles H. Abrams, forty-two dollars out of any moneys not otherwise appropriated, for services rendered as night-watchman at the capitol during the months of February and March one thousand eight hundred and seventy-one: *Provided*, That said Abrams shall previously surrender the warrant heretofore issued for said amount:

Proviso.

Further proviso.

Provided further, That the resolution heretofore adopted, under which such warrant was issued, is hereby rescinded.

Ratified the 1st day of February, A. D. 1872.

RESOLUTION IN REGARD TO THE LOVEJOY ACADEMY.

Lease of Lovejoy
Academy.

1st. Resolved by the senate, the house of representatives concurring, That the joint committee on public buildings and grounds be and they are hereby instructed to lease to Thomas Bailey, Esq., the school house on Burke Square, known as the Lovejoy Academy, upon such terms and for a period not exceeding ten years, for the purpose of a school of high grade, as will secure the preservation and yearly repair of this property.

When resolution
to be in force.

2d. Resolved, That this resolution be in force from its ratification.

Ratified the 1st day of February, A. D. 1872.

RESOLUTION TO ALLOW THE ENGROSSING CLERK OF THE SENATE
TO EMPLOY ASSISTANCE.

Assistance to en-
grossing Clerk.

1st. Resolved by the senate, the house of representatives concurring, That the engrossing clerk of the senate be authorized to employ such clerical assistance for the remainder of the present session as may be necessary: *Provided*,

Proviso.

The compensation of said assistant shall not exceed three dollars per day.

2d. *Resolved*, That this resolution be in force from and after its ratification. When resolution to be in force.

Ratified the 1st day of February, A. D. 1872.

RESOLUTION OF INSTRUCTION TO THE COMMITTEE ON PRINTING.

Resolved by the general assembly of North Carolina, That the joint committee on printing are instructed and empowered to make a contract for the binding of the report and testimony taken by the "Fraud Commission" in convenient and cheap book form. Contract for binding report taken by Fraud commission.

Ratified the 2d day of February, A. D. 1872.

RESOLUTION RELATIVE TO ADJOURNMENT.

Resolved by the senate, the house of representatives concurring, That the resolution ratified on the day of January, one thousand eight hundred and seventy-two, to adjourn on the seventh of February, be and the same is hereby repealed, and that this general assembly do adjourn at 12 m. Monday, the 12th day of February. Adjournment of House.

Ratified the 8th day of February, A. D. 1872.

RESOLUTIONS IN FAVOR OF DELINQUENT SHERIFFS.

The general assembly of North Carolina do resolve, That all sheriffs who have paid into the public treasury all the taxes due the state from their respective counties for the Relief for Sheriffs-

year one thousand eight hundred and seventy-one, shall be released from the payment of all fines and penalties incurred by reason of failure to pay said taxes at the proper time required by law: *Provided*, That any sheriff against whom judgment has been entered for his said default shall not be relieved from the payment of the costs of said judgment.

Proviso.

When resolution
to be in force,

This resolution to be in force from its ratification.

Ratified the 8th day of February, A. D. 1872.

RESOLUTION IN FAVOR OF EMPLOYEES OF THE SENATE AND
HOUSE OF REPRESENTATIVES.

Compensation
for extra services.

SECTION 1. *Resolved by the house of representatives, the senate concurring*, That the three employees of the senate and the house be each allowed the sum of thirty dollars additional pay for extra services performed during this session of the general assembly.

When resolution
to be in force.

SEC. 2. This resolution shall be in force from and after its ratification.

Ratified the 8th day of February, A. D. 1872.

A RESOLUTION IN FAVOR OF HENRY M. MILLER.

Compensation
for H. M. Miller.

Resolved by the house of representatives, the senate concurring, That the public treasurer pay to Henry M. Miller seventy-one dollars and sixty cents (\$71.60,) expenses incurred by him in arresting and bringing from the state of Virginia John Q. Bryant, a fugitive from justice in this state, which service was rendered by said Henry M. Miller, by order of the governor.

Ratified the 8th day of February, A. D. 1872.

RESOLUTION IN BEHALF OF WM. H. HAMILTON AND JOSEPH A.
MILLER.

SECTION 1. *The General Assembly of North Carolina do resolve*, That Wm. H. Hamilton, a citizen of Wake county, and Joseph A. Miller, of Lenoir county, be and they are hereby exempt from all taxation of the state, general or special, and that it shall be incompetent for any board of township trustees to assess their property for taxation. Exemption from taxation.

SEC. 2. That this resolution shall take effect from its ratification. When resolution to be in force.

Ratified the 8th day of February, A. D. 1872.

RESOLUTION IN FAVOR OF GEORGE N. LEWIS, SHERIFF OF NASH.

1st. *Resolved by the senate, the house of representatives concurring*, That the treasurer is hereby authorized and directed to pay to George N. Lewis, sheriff of Nash county, out of any money not otherwise appropriated, the sum of eighteen hundred and forty seven dollars and fifty cents, for services rendered in keeping certain horse thieves sentenced to the penitentiary. Compensation for G. N. Lewis.

2d. This resolution shall be in force from its ratification. When resolution to be in force.

Ratified the 8th day of February, A. D. 1872.

A RESOLUTION IN FAVOR OF D. C. DUDLEY AND OTHERS.

Resolved, the senate concurring, That the public treasurer be and he is hereby instructed to pay D. C. Dudley, John C. Gorman and John C. Marcom, the sum of sixty dollars each out of any moneys not otherwise appropriated as a Compensation.

compensation for services rendered in measuring the public printing.

When resolution
to be in force.

Resolved, That this resolution shall be in force from and after its passage.

Ratified the 8th day of February, A. D. 1872.

RESOLUTION IN FAVOR OF DANIEL LATTA, A WITNESS SUMMONED
TO APPEAR BEFORE A COMMITTEE OF THE HOUSE OF REPRESENTATIVES.

Compensation
for witness.

Resolved by the house of representatives, the senate concurring, That the public treasurer be and he is hereby instructed to pay to Daniel Latta, a witness summoned to appear before a committee of the house of representatives, for his attendance before said committee at the rate of one dollar and a half per diem for one day, and also to pay twenty-one dollars and forty cents, the actual traveling expenses of said Daniel Latta in obeying the mandate of the house of representatives.

Ratified the 8th day of February, A. D. 1872.

RESOLUTION IN FAVOR OF THOMAS S. SILER AND J. M. LYLE,
EXECUTORS OF JACOB SILER, DECEASED, LATE AGENT OF THE
STATE FOR THE COLLECTION OF CHEROKEE BONDS.

Money paid to
executors.

Resolved by the general assembly of North Carolina, That the public treasurer be and he is hereby authorized and directed to pay T. S. Siler and J. M. Lyle, executors of Jacob Siler, (deceased,) late agent of the state for the collection of Cherokee bonds, or their attorney, twenty-five dollars out of any moneys not otherwise appropriated.

Ratified the 8th day of February, A. D. 1872.

RESOLUTION IN FAVOR OF JOHN H. HILL, SEARGENT-AT-ARMS OF
THE HOUSE OF REPRESENTATIVES.

Resolved by the house of representatives, the senate concurring, That the public treasurer be and he is hereby instructed to pay John H. Hill, seargent-at-arms of the house of representatives, the sum of three dollars for services rendered in summoning Daniel Latta, a witness to appear before a committee of the house of representatives according to the mandate of the speaker, dated December twentieth, *anno domini* one thousand eight hundred and seventy-one.

Compensation
for sergeant at
arms for sum-
moning witness.

This resolution shall be in force from and after its ratification.

When resolution
to be in force.

Ratified the 8th day of February, A. D. 1872.

RESOLUTION IN FAVOR OF J. W. COOPER.

WHEREAS, On the twentieth of May, one thousand eight hundred and sixty-five, Jacob Siler, agent of the state of North Carolina for Cherokee lands, did erroneously collect of J. W. Cooper the sum of sixty-four dollars and twenty-two cents; therefore

Preamble]

SECTION 1. *Resolved by the house of representatives, the senate concurring,* That the treasurer be and he is hereby instructed to pay to J. W. Cooper, or order, the sum of sixty-four dollars and twenty-two cents out of any moneys in his hands not otherwise appropriated with interest on the same.

Money refunded.

Ratified the 8th day of February, A. D. 1872.

RESOLUTION IN FAVOR OF J. S. SUMMERSETT, JOHN PETILLO
AND ARCHER HOLT.

Compensation
for disabled sol-
diers of Confed-
eracy.

Resolved by the General Assembly of North Carolina,
That the public treasurer be instructed to pay to James S.
Summersett and John Petillo and Archer Holt, of Halifax
county, disabled soldiers, the sum of fifty dollars each as
commutation for arms lost in the service of the late Con-
federate army.

When resolution
to take effect.

Resolved further, That this resolution take effect from
its ratification.

Ratified the 8th day of February, A. D. 1872.

RESOLUTION IN FAVOR OF THE TAX COLLECTOR OF MCDOWELL
COUNTY.

Settlement for ar-
rears of taxes.

*Resolved by the senate, the house of representatives concur-
ring,* That the treasurer is hereby authorized to settle with
the sheriff of McDowell county for himself and the tax col-
lector all arrears of taxes for the year one thousand eight
hundred and sixty-eight and one thousand eight hundred and
sixty-nine, and remit the penalties against same: *Provided,*
The said arrears be settled on or before the first day of July,
one thousand eight hundred and seventy two.

Penalties remit-
ted.
Proviso.

When resolution
to be in force.

This resolution shall be in force from and after its ratifi-
cation.

Ratified the 8th day of February, A. D. 1872.

RESOLUTION IN FAVOR OF CHARLES H. ABRAMS FOR SERVICES AS
WATCHMAN OF THE CAPITOL.

Resolved by the senate, the house of representatives concurring, That the public treasurer be authorized to pay to Chas. H. Abrams, the sum of nineteen dollars and fifty cents, for services rendered as watchman of the capitol.

Compensation
for watchman of
Capitol.

Ratified the 9th day of February, A. D. 1872.

RESOLUTION TO PAY JOHN D. CAMERON SIXTY DOLLARS.

SECTION 1. *Resolved by the house of representatives, the senate concurring,* That the public treasurer is hereby authorized to pay John D. Cameron the sum of sixty dollars for services rendered in superintending the publication of report of fraud commission.

Compensation
for John D. Cam-
eron.

SEC. 2. That this resolution take effect from and after its ratification.

When resolution
to take effect.

Ratified the 10th day of February, A. D. 1872.

RESOLUTION IN FAVOR OF WILLIAM M. SHIPP, ATTORNEY GEN-
ERAL, AND JUDGE J. M. CLOUD.

Resolved, That Judge J. M. Cloud and W. M. Shipp, Attorney General, be allowed the sum of fifty dollars each in payment of expenses incurred in visiting the county of Rutherford, at the instance of the governor of state, to investigate outrages committed in said county in the year one thousand eight hundred and seventy-one, and that the auditor draw his warrant for the same.

Compensation
for services ren-
dered by Judge
Cloud and At-
torney General
W. M. Shipp.

Ratified the 10th day of February, A. D. 1872.

RESOLUTION OF INSTRUCTION TO THE PUBLIC AUDITOR.

Accounts of the public printing to be audited.

Resolved by the house of representatives, the senate concurring, That the auditor be and is hereby instructed to audit the accounts of the public printer which have not heretofore been audited, using for the measurement the quad em, and after deducting the amount heretofore overdrawn, as reported by the committee appointed to audit the accounts of the public printer, draw his warrant on the treasurer for any balance which may be due the public printer.

Report to be made to the General Assembly.

SEC. 2. That the public auditor be further directed to report to the general assembly, as soon as the accounts of the public printer have been audited, whether the amount heretofore overdrawn has been paid to the state by the public printer.

Ratified the 10th day of February, A. D. 1872.

RESOLUTION IN FAVOR OF THE PRINCIPAL CLERKS.

Compensation.

1st. The general assembly of North Carolina do resolve, That the principal clerks of the senate and house of representatives be each allowed one hundred dollars for extra work.

Treasurer to pay Clerk of Senate.

2d. Resolved, That the public treasurer be instructed to pay the principal clerk of the senate the one hundred dollars allowed to him as extra compensation at the last session by resolution ratified the sixth day of April, one thousand eight hundred and seventy-one.

When resolution to take effect.

3d. Resolved, That this resolution shall be in force from its ratification.

Ratified the 12th day of February, A. D. 1872.

RESOLUTION AUTHORIZING THE STATE GEOLOGIST TO HAVE HIS
REPORT PRINTED, ETC.

The general assembly of North Carolina do resolve, That the state geologist be and he is hereby authorized to have his report printed by the public printer as far as practicable, and that he shall have supervision of the work so far as to secure uniformity of paper, type, &c., and after furnishing a copy for each county, five copies for the state library, one copy for each member of the general assembly, and fifty copies to the governor for distribution among the states and other public libraries of the United States and Europe, he shall be authorized to sell the residue under the supervision of the governor, at such price as to repay the expenses of publication.

Report of State Geologist to be printed by public printer.

Distribution of copies.

Ratified the 12th day of February, A. D. 1872.

RESOLUTION OF INSTRUCTION TO THE SECRETARY OF STATE.

Resolved, the senate concurring, That the secretary of state be and he is hereby instructed to forward to each member of the general assembly to their respective postoffices addresses, nine copies of the fraud commission as soon as they are delivered to him by the binder.

Sec. State to send copies of Fraud Commission to each member of General Assembly

This resolution shall be in force from and after its passage.
Ratified the 12th day of February, A. D. 1872.

When resolution to take effect.

RESOLUTION IN FAVOR OF EDWARD S. BADGER.

Resolved by the general assembly of North Carolina, That the public treasurer be and he is hereby authorized and

Compensation for E. S. Badger.

directed to pay to Edward S. Badger, the sum of twenty-five dollars for clerical services rendered the board of managers in the impeachment trial of Governor Holden.

Ratified the 12th day of February, A. D. 1872.

RESOLUTION IN FAVOR OF ALBERT B. WILLIAMS AND ROBERT HENLY.

Compensation

Resolved by the house of representatives, the senate concurring, That the treasurer be and he is hereby directed to pay ten dollars to Albert B. Williams and ten dollars to Robert Henly for ten days services done during recess.

When resolution to be in force.

This resolution shall be in force from its ratification.

Ratified the 12th day of February, A. D. 1872.

RESOLUTION ALLOWING THE ENROLLING AND ENGROSSING CLERKS THE SAME PER DIEM AS RECEIVED BY THE PRINCIPAL AND ASSISTANT CLERKS.

Clerks of General Assembly to receive compensation alike.

1st. *Resolved by the general assembly of North Carolina,* That the enrolling clerk and the engrossing clerks be allowed, for the present session of the general assembly, the same *per diem* compensation that is allowed by law to the principal and assistant clerks of the senate and house of representatives.

2d. This resolution shall take effect from its ratification.

Ratified the 12th day of February, A. D. 1872.

RESOLUTION AUTHORIZING SETTLEMENT OF THE ACCOUNTS OF B.
S. BUCHANAN AND SURETIES WITH THE STATE.

Resolved by the general assembly of North Carolina, Settlement of
dues to the state
That the public treasurer be authorized, with the advice and consent of the attorney general and the solicitor for the sixth district, to make such settlement or compromise of all dues to the state from B. S. Buchanan, late sheriff of Jackson county, and his securities, or any of them as they in their discretion may think proper.

Ratified the 12th day of February, A. D. 1872.

RESOLUTION AUTHORIZING THE TREASURER AND ATTORNEY
GENERAL TO EMPLOY AID.

Resolved, That the state treasurer and attorney general are hereby authorized to employ such aid as they may find necessary to execute and carry out the act of the general assembly passed at this session proposing an exchange of the state stocks for a part of the state debt.

Ratified the 12th day of February, A. D. 1872.

RESOLUTION IN FAVOR OF JAMES H. ENNIS.

Resolved by the senate, the house of representatives con- Compensation
for J. H. Ennis.
curring, That the treasurer is hereby directed to pay Jas. H. Ennis the sum of ten dollars and twenty cents for stationery purchased for the use of the senate.

Ratified the 12th day of February, A. D. 1872.

RESOLUTION TO RAISE A COMMISSION TO EXAMINE INTO THE
ACCOUNTS OF THE PUBLIC TREASURER.

Commissioners
appointed to ex-
amine Treasurer's
accounts.

Resolved by the general assembly of North Carolina, That a commission, to consist of two senators and three members of the house of representatives, be appointed to perform the duties enjoined by sections seventy-seven and seventy-eight and seventy-nine, chapter two hundred and seventy of the public acts of one thousand eight hundred and sixty-eight and one thousand eight hundred and sixty-nine, ratified April twelfth, one thousand eight hundred and sixty-nine.

Ratified the 12th day of February, A. D. 1872.

RESOLUTION IN REGARD TO THE CAPITOL.

Instructions to
Keeper of Capitol
for repairing
Capitol.

Resolved, That the keeper of the capitol be and he is hereby instructed under the direction of his excellency, the governor, to have the necessary repairs made upon the roof, plastering and lightning rods of the capitol, and that the expenses therefor be paid upon the warrant of the governor to a sum not exceeding five hundred dollars.

Ratified the 12th day of February, A. D. 1872.

RESOLUTION RELATIVE TO THE CHEROKEE INDIANS OF NORTH
CAROLINA.

Preamble

WHEREAS, On the twenty-ninth of December, one thousand eight hundred and thirty-five, a treaty was concluded and ratified May twenty-third, one thousand eight hundred and thirty-six, between the United States of America and the

chiefs, headmen and people of the Cherokee tribe of Indians, and by the first and second articles of said treaty the Cherokee nation ceded and conveyed to the United States all the lands owned, claimed or possessed by them east of the Mississippi river, for which the United States conveyed to them seven millions of acres west of the Mississippi, and afterwards the lands conveyed to the Cherokees was thought insufficient, and the United States sold to the Cherokees eight hundred thousand acres of land which was and is known as the neutral land, for which the United States retained one half million of dollars out of the five millions which was to be paid to the Cherokees in addition to seven million acres of land: *and whereas*, a part of the twelfth section of said treaty of one thousand eight hundred and thirty-five and one thousand eight hundred and thirty-six, is in the following words: "Act twelve. Those individuals and families of the Cherokee nation that are averse to a removal to the Cherokee country west of the Mississippi and are desirous to become citizens of the state where they reside, and such as are qualified to take care of themselves and their property, shall be entitled to secure their due portion of all the personal benefits accruing under this treaty for their claims, improvements and *per capita*; *and whereas*, by another treaty between the United States and the Cherokee Indians proclaimed August the eleventh, one thousand eight hundred and sixty-six, of which part of article seventeen is in the following words: "The Cherokee nation hereby cedes in trust to the United States the tract of land in the state of Kansas which was sold to the Cherokees by the United States under the provision of the second article of the treaty of one thousand eight hundred and thirty-five; and also a strip of the land ceded to the nation by the fourth article of said treaty, which is included in the state of Kansas, and the Cherokees consent that said lands may be included in the limits and jurisdiction of said state:" *and whereas*, the last named lands so ceded to the United States are the very lands which were purchased with the common funds of all the Cherokees, those who

Lands ceded by the Cherokee tribe to the United States for lands west of the Mississippi.

Cherokees remaining in the state are entitled to due proportion of all property granted to the tribe.

Preamble.

2d Treaty with Tribe.

Kansas lands ceded to the United States.

Preamble.

Preamble

remained east as well as those who remained west of the Mississippi: *and whereas*, a considerable number of persons who were a part of the Cherokee nation remained in North Carolina, who became and who are now citizens of North Carolina, as under the twelfth section of the said treaty of one thousand eight hundred and thirty-five and one thousand eight hundred and thirty-six, they had a right to do without losing any title or right in the property acquired by the Cherokee nation under said treaty; *and whereas*, a treaty is now pending before the honorable senate of the United States in relation to the proceeds of the land so sold to the United States under the treaty of one thousand eight hundred and sixty-six, and for other money claims of the Cherokees against the claims of the United States:

Money due Cherokee nation.

Money to be recovered for Cherokee citizens of North Carolina from the United States

1st. *Be it therefore resolved*, That our senators and representatives in congress be requested to use their influence in obtaining for said Cherokees now citizens of North Carolina, their *pro rata* share of the moneys arising from the sale of the land so sold under the treaty of one thousand eight hundred and sixty-six, and also their *pro rata* share of all other moneys due them under the several treaties made between the United States and the Cherokees.

Copies of resolutions to be sent to Congress.

2d. *And be it further resolved*, That his excellency, the governor, transmit to each of our senators and representatives in congress a copy of these resolutions.

Ratified the 8th day of February. A. D. 1872.

RESOLUTION IN REFERENCE TO PRINTING THE CONSTITUTION AS
AS IT WILL STAND WHEN AMENDED ACCORDING TO THE ACT
RECENTLY PASSED.

Committee appointed to prepare for publication a copy of the constitution when amended.

Resolved by the senate, the house of representatives concurring, That a joint select committee of two from the senate and three from the house be appointed whose duty it shall be to prepare for publication a copy of the constitution

as it will stand when amended according to the act for that purpose recently passed, and said committee shall so arrange this copy that all new provisions, phrases and words shall appear in their proper places *in italics*, and all provisions stricken out shall in like manner appear adjoining their former places in the constitution *in italics* and in brackets.

Resolved further, That twenty-four copies of the constitution thus prepared be printed for each member of the general assembly.

Copies printed
for members
General Assembly

Ratified the 8th day of February, A. D. 1872.

RESOLUTION OF REQUEST TO MEMBERS IN CONGRESS.

WHEREAS, The educational condition of the southern states is far below that of the states in the north, and owing to the poverty of the southern states from the late war, therefore,

Preamble.

SECTION 1. *Be it resolved by the general assembly of North Carolina*, That our senators and representatives in the congress of the United States be respectfully requested to use their influence in urging the passage of some measure which will donate all moneys arising from the sales of public lands to the educational puposes in these southern states.

Congress re-
quested to donate
monies for educa-
tion.

SEC. 2. *Resolved further*, That the secretary of state be requested and directed to forward copies of these resolutions to each of our senators and representatives now in congress assembled.

Copies of resolu-
tions to be for-
warded to Con-
gress.

Ratified the 8th day of February, A. D. 1872.

RESOLUTION IN RELATION TO THE SALE OF THE EASTERN
DIVISION OF THE WESTERN NORTH CAROLINA RAILROAD.

Preamble.

WHEREAS, A sale of the Eastern Division of the Western North Carolina Railroad is reported to have been recently made under executions upon judgment against said railroad company at which said sale a very inadequate sum was bid, and the same was sold therefor, whereby the interests of the state in said road were sacrificed. Therefore, in order that the interests of the state may be protected :

Investigation of
sale of Railroad.

SECTION 1. *The general assembly of North Carolina do resolve*, That the governor and attorney general are hereby instructed forthwith to investigate and inquire into the regularity of any sale or sales of said road made or pretended to be made, and if in their judgment the same is found to have been irregularly, illegally or fraudulently made or for the purpose of benefitting any party or parties to the detriment of the state's interest therein, they are hereby authorized and instructed to institute a suit or suits or to take such other step or steps as they may deem advisable and necessary to set aside said sale and protect the interests of the state in said sale.

Suit may be
brought to pro-
tect State interest.

When resolution
to be in force.

SEC. 2. This resolution shall be in force from its ratification.

Ratified the 10th day of February, A. D. 1872.

RESOLUTION FOR THE RELIEF OF B. MAYFIELD, CITIZEN OF
CHEROKEE COUNTY.

Preamble.

WHEREAS, Judgment was entered against B. Mayfield, citizen of Cherokee county, on his bond as security for the appearance of one Joshua Holcombe in the superior court of the county of Cherokee, ——— term, one thousand eight hundred and ———, for failing to secure the appearance

of the said Holcombe in said court, fall term, one thousand eight hundred and sixty-seven, and whereas, by petition of a large and respectable number of the citizens of the county Cherokee, it is shown that it was impossible to secure the appearance of the said Holcombe in said court by reason of the severe illness of the said Holcombe; and whereas, it is further shown by this petition that said judgment against the said B. Mayfield was not entered until after the death of said Holcombe, therefore

The General Assembly of North Carolina do resolve, That ^{Release from judgment,} B. Mayfield, citizen of Cherokee county, be and he is hereby fully and effectually released and discharged from the judgment and costs obtained against him in the superior court of Cherokee county, ——— term, one thousand eight hundred and ———, for failing to secure the appearance of Joshua Holcombe in said court of Cherokee county, fall term, one thousand eight hundred and sixty-seven.

Ratified the 12th day of February, A. D. 1872.

STATE OF NORTH CAROLINA,
OFFICE SECRETARY OF STATE,
Raleigh, Feb. 29th, 1872.

I, HENRY J. MENNINGER, Secretary of State, hereby certify that the foregoing are true copies of the original public acts and resolutions on file in this office.

HENRY J. MENNINGER,
Secretary of State.

INDEX
TO THE
PUBLIC LAWS AND RESOLUTIONS
OF THE
GENERAL ASSEMBLY OF NORTH CAROLINA,
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