ACTS

PASSED BY THE

GENERAL ASSEMBLY

OF THE

STATE OF NORTH CAROLINA,

AT THE

Session of 1835,

RALEIGH:

Philo White, Printer to the State.

1836.

LAWS OF NORTH CAROLINA,

Enacted by the General Assembly, begun and held at Raleigh, on the sixteenth day of November, in the year of our Lord one thousand eight hundred and thirty-five, and in the sixtieth year of the Independence of the said State.

RICHARD D. SPAIGHT, Esq. GOVERNOR.

CHAPTER I.

An ACT prescribing the time and places for comparing the polls in the different Senatorial Districts therein named.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That the Sheriffs or other returning officers of the counties of each Senatorial District herein named, as laid off by the amended Constitution of this State, shall meet on the third Thursday in August, after each election, at the following places in their respective districts, for the purpose of comparing the polls in said districts, viz: In the first District, composed of the counties of Pasquotank and Perquimons, at Woodville, on little river. In the second District, composed of the counties of Camden and Currituck, at Indian Town, Doctor Marchant's Store. In the third District, composed of the counties of Gates and Chowan, at the house of Thomas I. Miller, in Gates county. In the fourth District, composed of the counties of Washington and Tyrrell, at Columbia, in Tyrrell county. In the seventeenth District, composed of the counties of Green and Lenoir, at Snowhill, in the county of Green. In the nineteenth District, composed of the counties of Beaufort and Hyde, at Leechville, in Beaufort county. In the twentieth District, composed of the counties of Jones and Carteret, at Buckner Hill's Mill, in Carteret county. In the thirtieth District, composed of Brunswick, Bladen and Columbus, at the house of David Taylor, Sr. in Brunswick. In the thirty-first District, composed of the counties of Robeson and Richmond, at Laurel Hill, in Richmond. In the thirty-fourth District, composed of the counties of Moore and Montgomery, at the house of Daniel Chisholm, in Moore. In the forty-fourth District, composed of the counties of Wilkes and Ashe, at Wilksborough and Jefferson alternately. In the forty-fifth District, composed of the counties of Burke and Yancy, at David Chandler's, North Cove, Burke county; and in the forty ninth District, composed of the counties of Buncombe, Haywood, and Macon, at Waynesville, Haywood county: *Provided, always,* that if any accident shall happen to either of the returning officers, which may prevent either or any of them from meeting on the day aforesaid, the returns of each and every officer shall be received on the day following; and the Sheriff or other returning officer failing to attend at the time and places above mentioned, shall forfeit and pay the sum of five hundred dollars, to be recovered for the use of the State, upon due proof thereof, in any Court of law having jurisdiction thereof, within the State, by action of debt in the name of the State, and shall, moreover, be subject to indictment and fined at the discretion of the court. And when the Sheriffs or other returning officers shall be convened as aforesaid, the poll for the different counties shall, by the said Sheriffs or other returning officers, as the case may be, in the presence of three

Sheriffs to meet on the 3d Thursday in August.

Where to meet.

Proviso.

Penalty.

Their duty.

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justices of the Peace, or if said justices of the Peace cannot be conveniently procured, then in the presence of three freeholders, who are to be summoned by the Sheriff or other returning officer of the county where they shall meet for that purpose, be examined and compared, and a certificate, under the hands and seals of said returning officers, shall be given to the candidate in each District, 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 said returning officers shall determine which of them shall be the Senator; and if no decision is made by them, then they shall decide the same, by drawing in like manner as the Grand Jury is drawn for in the Superior Courts.

In case of a tie, how to determine.

II. Be it further enacted, That every Sheriff, or other returning officer, shall be allowed the sum of two dollars and fifty cents per every thirty miles travelling to, and returning from the place of comparing the polls; and the same sum, for every day he shall necessarily attend, for the purpose of comparing the polls; and also his ferriages, which shall be paid by the public Treasurer of the State, on affidavit of the Sheriffs or other returning officers, which affidavit may be made before any justice of the peace within the State.

Compensation to Sh'ffs.

III. Be it further enacted, That the polls for members of the General Assembly, in the other Senatorial Districts, prescribed by said amended Constitution, and the members of the House of Commons, shall be compared and certified in the same manner, and under the same rules and regulations, as are already provided by law.

Polls in other districts to be opened, &c. as heretofore.

IV. Be it further enacted, That it shall be the duty of the Sheriffs of the several counties of this State, to open the polls at the several election precincts in their respective counties, for the election of a Governor of the State of North Carolina, on the same days, in the months of July and August, one thousand eight hundred and thirty-six, that elections are now held for members of Assembly; and, biennially thereafter, on the same day, and under the same rules, regulations and restrictions, that elections are now directed to be held for members of the General Assembly of the State; and that the said Sheriffs shall make their returns of the said elections, sealed up to the Secretary of State, to be, by him, delivered to the Speaker of the Senate, on or before the second week of the session of the General Assembly, to be held next thereafter.

Polls to be opened for the election of a Governor.

CHAPTER II.

An Act to declare and amend the law respecting public Jails in certain cases.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That whenever the public jail of any county in this State, shall be destroyed by fire, or other accident, it shall and may be lawful for any Justice of the peace, of such county, to cause all prisoners confined therein at the time of such destruction, to be brought before him, and upon production of the process, under which any prisoner or prisoners were confined in the jail, so destroyed, it shall be the duty of such Justice to order the commitment of all such persons to the jail or jails of any of the adjacent counties; and the Sheriff, Constable, or any officer deputed for that purpose in the county where said Justice resides, shall be bound to obey the order so made, and the sheriff or keeper of

In case of fire or other accident, prisoners to be confined in the jail adjacent.

the common jail of any such adjoining county shall be bound to receive such prisoner or prisoners, upon the order of such justice, under the penalties now provided by law for any failure to perform the like duties.

Where there is no jail, commitment may be made in the adjacent county.

II. Be it further enacted, That whenever it shall from any cause happen, that there shall be no public jail, in any county of this State, it shall, and may be lawful, for the Superior courts of law and equity, the courts of Pleas and Quarter Sessions, justices of the peace, and all other judicial officers of such county, to commit all prisoners who may be brought before them, whether in a criminal or civil proceeding, to the jail of any adjoining county, for the same causes, and under the like regulations, that they might have ordered commitments to the jail of their own county, if any existed, and the sheriff, constables or other officers of such county, in which there may be no jail, and the sheriffs or keepers of the jails in the adjoining counties shall be bound to obey any order of commitment so made, under the like penalties as aforesaid.

Sheriffs, &c. may confine persons in adjacent jails in certain cases.

III. Be it further enacted, That the sheriff, constables and other ministerial officers of any county in which there may be no jail, shall have full power, authority and privilege to confine any prisoner who has been arrested, on process either civil or criminal and who may be held in custody for want of bail, in the jail of any adjoining county, until sufficient bail shall be given or tendered, and the sheriffs or keepers of the jails shall receive such prisoners in the like manner as aforesaid, and all Sheriffs or keepers of jails, who shall suffer any prisoner or prisoners, committed to their custody in any of the modes aforesaid, to escape therefrom, shall be liable to indictment and punishment as in other cases of escape.

When to be in force.

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

CHAPTER III.

An Act to suppress more effectually the vice of gaming in this State.

5th sec. of act of 1822 repealed.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That the fifth section of an act, passed in the year one thousand eight hundred and twenty two, entitled an act to provide a revenue for the payment of the civil list and contingent charges of government, as authorized the construction and erection of public gaming tables, other than billiard tables, be, and the same is hereby repealed.

Prior acts to be in force.

II. Be it further enacted, That all the acts and clauses of acts, heretofore passed in this State, having for their object the suppression of gaming, and which were in force immediately prior to the passage of the act of one thousand eight hundred and twenty two, above recited, be, and the same are hereby declared to be in full force and virtue; and in addition to the penalties therein prescribed, it is hereby provided, that each and every person who shall, after the first day of April next, construct, erect, keep up, or use any public gaming table, or place, at which games of chance shall be played, by whatever name called, shall be subject to indictment in any court of record having jurisdiction of the offence; and upon conviction shall be fined at the discretion of the court, not less than two hundred dollars, and imprisoned not less than one calendar month.

Additional penalty.

Penalty for playing, &c.

III. Be it further enacted, That each and every person, who shall after the first day of April next, as aforesaid, play at any of the gam-

ing tables forbidden by this act, any game of chance, and bet any money or property, whether the same be in stake or not; or who shall bet at any such game, shall be deemed guilty of a misdemeanor, and upon indictment and conviction in any court of record having jurisdiction of the offence, shall be fined at the discretion of the court, not less than ten dollars.

CHAPTER IV.

AN ACT providing compensation to the Sheriffs of the several counties of this State, for making the returns of the vote given at the late election, for adoption or rejection of the proposed amendments to the Constitution.

Compensat'n

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That the Sheriffs of the several counties of this State, shall receive the same compensation for making the returns of the votes given in, at the several elections in the several counties in this State, holden on the ninth, tenth, and eleventh days of November, one thousand eight hundred and thirty-five, for rejection or adoption of the proposed amendments to the Constitution, as Sheriffs have heretofore received for making their annual returns to the Treasurer and Comptroller of this State, for the purpose of accounting for the public monies; which compensation shall be paid by the Public Treas'r in the same manner as the compensation to said Sheriffs, has been paid for accounting for the Public monies: *Provided*, That nothing herein contained shall apply to Sheriffs who made their returns otherwise than by themselves in person, or by their deputies in person.

Proviso.

CHAPTER V.

An ACT to provide for the election of Members of the General Assembly of this State, when vacancies shall occur by death, resignation, or otherwise before the meeting of the General Assembly.

In case of vacancy, sh'ff to notify the Governor.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That in case any person who shall hereafter be elected, to represent any county, or counties in the General Assembly of this State, shall before the meeting of the said General Assembly, die, or from any other cause fail, refuse, neglect, or delay to accept of his said appointment, it shall be the duty of the Sheriff of the county in which the said person so elected, reside or does reside, to notify the Governor of the same forthwith; and the said Sheriff, for every such neglect of duty, shall be subject to indictment, in any court of record; and on conviction, shall be fined or imprisoned, at the discretion of the court.

Persons refusing to accept or resigning, to notify the Governor.

II. Be it further enacted, That in case any person, who shall hereafter be elected to represent any county or counties in the General Assembly of this State, shall, before the meeting of the said General Assembly, resign, refuse, or decline to accept, and attend the duties of his said appointment, it shall be the duty of said person immediately to notify the Governor, in writing, of such his determination.

Governor to order new elections.

III. Be it further enacted, That in all vacancies that shall hereafter occur by death, resignation, or otherwise, before the meeting of the General Assembly, and being notified thereof, as aforesaid, it shall be the duty of the Governor to issue a writ of election to the Sheriff or Sheriffs, of the county or counties wherein such vacancy shall have occurred commanding; him or them to hold an election, for a member of the General Assembly, to supply such vacancy, at a certain time therein to be specified, and under the same rules and regulations as are now prescribed by law, for holding elections in said county or

counties; which elections, so held in pursuance of said writ, shall be conducted in like manner, and to all intents and purposes, shall be as legal and valid, and subject to officers, and persons elected to the same penalties and liabilities, as if the same had been held at the time, and according to the rules and regulations now prescribed by law.

CHAPTER VI.

An ACT authorizing the entering the unsurveyed lands acquired by treaty from the Cherokee Indians, A. D. one thousand eight hundred and seventeen and one thousand eight hundred and nineteen, in the counties of Haywood and Macon.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That from and after the first day of May next, it shall and may be lawful for any person or persons to enter any vacant and unsurveyed lands, that have been acquired by treaty from the Cherokee Indians, in the year of one thousand eight hundred and seventeen and one thousand eight hundred and nineteen, under the same rules, regulations and restrictions that are already provided by law for entering vacant lands in this State, and all laws and clauses of laws coming within the meaning and purview of this act, be and the same are hereby repealed.

Lands may be entered after the 1st of May, 1836.

CHAPTER VII.

An ACT to amend an act, entitled an act concerning the draining of low lands, passed in the year one thousand seven hundred and ninety-five.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That the provisions of the above recited act be, and the same are hereby, extended to all cleared lands, as well as forest, any thing in the said act to the contrary notwithstanding: Provided that this extension of said act, shall not be so construed, as to authorize the running of any ditch or canal through the yard or curtilage of any proprietor without his, her or their consent.

Provis'ns extended to all clear'd lands.

CHAPTER VIII.

AN ACT granting further time for revising and digesting the Public Statute Laws.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That the act of the General Assembly, passed in the year one thousand eight hundred and thirty-three, entitled an act for revising and digesting the public statute laws of the State, shall be, and continue in full force and operation; and the commissioners heretofore appointed, by virtue of the act aforesaid, or those who may be hereafter appointed, shall be allowed, until the first day of December, one thousand eight hundred and thirty-six, to complete the duties assigned to them by the said act.

Time extended to 1st of Dec. 1836.

II. Be it further enacted, That that portion of the digest of the public laws, which has been already completed by the commissioners, and presented by his Excellency, the Governor, to this General Assembly, shall be returned to said commissioners, who shall proceed to prepare the residue thereof; and it shall be their duty, after having finished said digest in the manner prescribed by the act aforesaid, to cause two hundred copies of their work to be printed by some printer, to be designated by the Governor, in convenient form for the use of the members of the next General Assembly; and to deposite the same in the office of the Governor, who is hereby authorized to draw upon the Public Treasurer for the cost of such printing when completed.

Digest to be printed, &c.

Clerk may be employed.

III. Be it further enacted, That to enable the said commissioners to complete their work, and to have the same transcribed for the press in convenient time, it shall and may be lawful for them to employ a Clerk to said commissioners, at a compensation not exceeding three hundred dollars, to be paid out of the Public Treasury, upon the warrant of the Governor as aforesaid.

CHAPTER IX.

AN ACT to allow further time for Registering Grants, proving and Registering Deeds, Mesne Conveyances, Powers of Attorney, Bills of Sale, and Deeds of Gift.

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

Allows three years.

CHAPTER X.

AN ACT for the relief of Widows; touching the Estate of their husbands, and for other purposes.

Widows entitled to a share of any residence undisposed of by will.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That whenever any testator shall leave a residence of his personal estate undisposed of in his Will, and shall leave a widow, him surviving, such widow shall be entitled to the same share of the residium, undisposed of in her husband's will, as if he had died without leaving any will.

II. Be it further enacted, That when any widow may enter her dissent from her husband's will, within six months after the probate of such will, she may, within six months of the probate of such will, file her petition in the court where the probate of such will was made, for one year's provisions, out of her husband's estate; and it shall be the duty of such county court to appoint three free-holders and a justice of the peace, to lay off, to the petitioner, her year's provisions; and such justices of the Peace and Free-holders shall lay off to the petitioner one year's provisions under the same rules and regulations as are already prescribed by law for Widows of intestates, which year's provisions so laid off shall be paid by the Executor or administrator in preference to all other claims out of the assets.

Widow may file petition within 6 mos. of the probate of will.

III. Be it further enacted by the authority aforesaid, That in all cases where a widow shall file her petition for one year's provisions out of her deceased husbands estate, the costs of such petition shall be paid by the Executor or administrator out of the assets of the Testator or intestate, Provided, there should be a deficiency of assets to pay the year's provision and costs of petition, then shall the petitioner pay the costs.

Cost paid by executor or administrat'r

CHAPTER XI.

An ACT to authorise a subscription upon the part of this State, to the capital stock of the Oconalufty Turnpike Company.

Whereas by an act of Assembly passed in the year of eighteen hundred and twenty four, chapter twenty nine, relating to the Smoky Mountain Turnpike Company, and authorizing a subscription on the part of this State to the stock of said company, the Treasurer of this State was authorized on behalf of this State to subscribe for one hundred shares of stock at twenty dollars each; and whereas it has been found impracticable to make the said road, and the Legislature in consequence thereof by an act passed in the year of eighteen hundred and thirty one, chapter one hundred and five, incorporated a company to make a Turnpike road from the top of the Smoky mountain down the Oconalufty river as far as the house of John Beck on said river in Haywood county: To the end that the purpose contemplated by both acts may be accomplished, Preamble.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That the Public Treasurer be, and he is hereby required to subscribe on behalf of this State, in the company created by the said act, passed in eighteen hundred and thirty-one, chapter one hundred and five, the same amount of stock that he was required to subscribe under the aforesaid act passed in eighteen hundred and twenty-four, chapter twenty nine: Provided that no part of the subscription on the part of the State shall be paid by the Public Treasurer, until the road aforesaid shall have been finished and received by the commissioners: and provided further, that the said payment be made out of the fund set apart for Internal Improvement. Treasurer required to subscribe for stock. Proviso.

CHAPTER XII.

AN ACT amendatory of the act passed in year eighteen hundred and twenty two, entitled an act for the relief of debtors for debts which may be contracted after the first day of May next.

Whereas doubts have arisen, whether an appeal can be taken from the verdict of the jury who may be impannelled to try any issue made up to try whether the defendant hath been guilty of any fraud or concealment of any property, money or effects, agreably to the act of eighteen hundred and twenty two, entitled an act for the relief of debtors for debts which may be contracted after the first day of May next; Preamble.

Be it therefore enacted by the General Assembly of the State of North Carolina and it is hereby enacted by the authority of the same, That either party to an issue made up under the provisions of the aforesaid act of eighteen hundred and twenty two, to try whether the defendant hath been guilty of any fraud, or concealment of any property, money or effects, may appeal, under the same rules and regulations as appeals in other cases. Either party may appeal.

CHAPTER XIII.

AN ACT concerning the probate of Wills made out of the State, and the registration of Deeds and powers of attorney, executed in foreign countries.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That whenever it shall be suggested to the Court of Pleas and Quarter Sessions, in any county in which may be situated lands or other property, that a Will has been made without the State disposing of or changing the same, it shall be competent for said court to order a commission Where a will is made out of the State, how to be proved, &c.

or commissions to issue to such person or persons as it may select, and to be returned at any subsequent term thereof, authorising the commissioner or commissioners or such number of them as it may designate, to take the examination of such witnesses as may be produced, touching the execution thereof; and upon return of such testimony, the court may proceed to adjudge the said Will to be, or not to be, duly proved in the same manner as it now can, on the oral examination of a witness or witnesses in open court.

Deeds, &c. proved in foreign parts, to be registered in certain cases.

II. Be it further enacted, That whenever a Deed for the conveyance of lands or negroes, or other property, or a letter of attorney for the conveyance thereof, which deed or letter of attorney is by law authorized to be registered, shall be proved or acknowledged in foreign parts, before any ambassador, public minister, consul or commercial agent of the United States, and a certificate of such ambassador, public minister, consul or commercial agent, shall be thereunto annexed under his official seal, declaring such probate or acknowledgment, or when any feme covert party, to such deed or letter of attorney, shall be privately examined before such ambassador, public minister, consul or commercial agent, and a certificate of such examination shall be annexed as aforesaid, such probate acknowledgment and examination being produced before the Court of Pleas and Quarter Seseions, of the county wherein the lands or other property is situated, may be ordered by said court to be registered,—together with the said deed or letter of attorney; and the instrument so registered, shall have the same validity as if the probate acknowledgment and examination had been had in open court.

Court may appoint commissioners in foreign parts to take the acknowledgm't of deeds, &c.

III. Be it further enacted, That whenever it shall be suggested to the court of Pleas and Quarter Sessions of any county, that a deed for the conveyance of lands or other property within such county has been made in foreign parts, it shall be lawful for such court to issue a commission returnable at some subsequent term thereof, to a commissioner or commissioners, authorizing him or them, or any number of them the court may designate to take the acknowledgment of the party or parties thereto, or the examination of any of the subscribing witnesses thereto; and if any of the parties shall be a feme covert, to take, also, the private examination of such feme covert, and the proceedings of the said commissioner or commissioners so authorized, being returned, the court may proceed to adjudge that said deed or letter of attorney is duly acknowledged or proved, and the said examination is in due form, and upon such adjudication, the deed or letter of attorney with the proceedings so had, shall be registered; and the same so registered, shall have the same effect as though all the said proceedings had been had in open court.

CHAPTER XIV.

AN ACT to provide for the payment of the instalments on the shares reserved to the State, in the capital stock of the Bank of the State of North Carolina.

Pub. Tr. to make certificates.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That it shall be the duty of the Public Treasurer of this State, and he is hereby required to make, and execute, in proper form, and in his official capacity, certificates binding the state for the payment of the money purporting to be due thereon, to the amount of four hundred thousand dollars, and no more.

II. Be it further enacted, That the said certificates shall be issu-

ed for the sum of one thousand dollars each; and shall bear interest at the rate of five per centum per annum, payable semi-annually, on the first days of February and August in each and every year, at the Bank of the State of North Carolina, in Raleigh, or at such other bank, or banks, as the agent of the state hereinafter mentioned may designate, for making payment of the same. Certificates to be $1000 each, to bear 5 pr. ct. int'st per annum.

III. Be it further enacted, That all certificates of debt by the state, issued under and by the authority of this act, shall be signed by the Public Treasurer in his official capacity, as herein before mentioned, and shall be countersigned by the Comptroller of this State, and duly registered by him at large, in a book prepared and kept for that purpose. To be signed by Treasurer and countersigned by the Comptroller.

IV. Be it further enacted, That the said certificates shall be transferable by the holders of the same, or by his, her or their attorney, in a book to be kept by the Public Treasurer for that purpose, and on every such transfer the outstanding certificate shall be surrendered to, and cancelled by the Public Treasurer, and a new certificate shall be issued for the same amount to the person entitled to the same. How to be transferred.

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

VI. Be it further enacted, That for the payment of the interest semi-annually at the rate of five per centum per annum, on the principal debt hereby authorised to be created on the credit of, and for the benefit of the state, until the same shall be fully paid to the holders of the certificates therefor, and for the full and entire payment and redemption of such principal debt, and every part thereof, all the shares which the state now holds, or may hereafter hold in the capital stock of said Bank, and the dividends which may accrue, be and they are hereby pledged, and the General Assembly doth hereby guarantee the payment of the full amount of the debt authorised by this act to be contracted, and of the punctual payment semi-annually of the interest thereon, at the rate aforesaid, until the whole of the said debt shall be fully paid, satisfied and redeemed. Bank Stock pledged for the redemption of debt.

VII. Be it further enacted, That the Governor shall appoint a fit and competent agent in behalf of the state, to negotiate the sale of the debt hereby authorised to be contracted; who shall have power and authority to sell the same, or any part thereof, at not less than its par value, and shall pay over to the Public Treasurer the full proceeds of such sale or sales. Gov'r to appoint a commissioner to negotiate the debt.

VIII. Be it further enacted, That it shall be the duty of the Public Treasurer, and he is hereby required to pay out of the money which he may receive from the agent aforesaid, the full instalments on such, and so many shares of the capital stock of the Bank aforesaid, as remain unpaid for, by and in behalf of the state, in like manner and on the same terms as are prescribed for payments to be made by individual or other subscribers for shares of stock in said Bank. Treasurer to pay instalments on sh's Bank stock.

IX. Be it further enacted, That the Governor be, and he is hereby authorised to make to the agent aforesaid, such allowance for his services and expenses, as he may deem reasonable and adequate; and to defray all other expenses incident to the execution of this act; all which shall be paid by the Public Treasurer, on the warrant of the Governor. Gov'r to pay expenses, &c.

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

CHAPTER XV.

AN ACT to regulate the mode of passing private acts of the General Assembly.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That any person or persons who may desire to procure the passage of any private act of the General Assembly, shall cause his, her, or their intention to make such application, to be published by advertisement, to be posted up at the court house door, and three other public places in the county in which such applicants or any of them may reside, for at least thirty days before the meeting of the General Assembly; and when such private bill shall be presented, upon the request of any member, a copy of the notice with due proof of its having been so published, shall be introduced, before the same shall be allowed to be read a second time.

Publication to be made by persons desiring the passage of a private act.

CHAPTER XVI.

AN ACT for the relief of sick and disabled American Seamen,

Preamble. WHEREAS, the Hospital money collected at the Port of Wilmington, in this State, under the acts of Congress, is insufficient for the purposes designed—and to assist the Marine Hospital Association recently organized in the town of Wilmington more effectually to accomplish so benevolent an object,

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That before any ship or vessel of the United States shall be admitted to enter at the Custom House, at the Port of Wilmington, the master of said ship or vessel shall render to the collector of said port, a true account of the number of officers and seamen that have been employed on board of such ship or vessel since she was last entered or cleared at any port of the United States, and shall pay to the said collector at the rate of thirty cents per month, for each and every officer and seaman so employed; which sum the master is hereby authorised to retain out of the wages of such officer and seamen.

No. of officers &c. to be render'd by masters of ves'ls, and 30 cts pr. month paid on each.

II. Be it further enacted, That on the arrival of any coasting vessel, or vessel sailing under coasting license, (except vessels trading within the limits of this State) at the port of Wilmington, the master of said vessel shall, forthwith, render to the collector of said port a true account of the number of passengers, officers and seamen who came in, and were employed on board said vessel, and shall pay to the said collector, for each cabin passenger and himself, fifty cents; and for each other officer, passenger and seaman, twenty-five cents;—which payment for the crew of said vessel, the master is hereby authorized to retain out of the wages of said seamen: and if the master of any ship or vessel shall fail to render, or render a false account of the number of passengers, officers and seamen, and length of time they have been employed as herein required by the first and second sections, he shall forfeit and pay one hundred dollars; to be recovered in any court of record in this State, at the instance of the collector aforesaid, to the use of the Wilmington Marine Hospital Associaton.

Coasting vessels subject to like regulations, &c.

Liability of masters.

III. Be it further enacted, That the money collected by virtue of the abeve recited act, by the collector aforesaid, after deducting for his compensation two and a half per cent, shall be paid over quarterly to

Collector to pay the money to Pres't

the president and managers of the Wilmington marine hospital association aforesaid, or to such person as they shall appoint for that purpose. And should the collector of said port fail or refuse to pay over the money as herein directed, he shall forfeit and pay five hundred dollars for each and every offence, to be recovered in any court of record in this State, to the use of the Wilmington marine hospital association aforesaid. and Drs. W. M. H. A.

Be it further enacted, That the president and managers of the Wilmington marine hospital association aforesaid, shall faithfully devote all the money coming into their hands in virtue of the above recited act, to the relief of sick and disabled American seamen; shall annually make a true return of their proceedings and situation to the public treasurer of the State, and to the secretary of the treasury of the United States. How to be appropriated

IV. Be it further enacted, That this act shall not be in force until the same is ratified and confirmed by an act of Congress of the United States. When to be in force.

CHAPTER XVII.

AN ACT to regulate the practice of hawking and pedling in this State.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That, hereafter, it shall not be lawful to hawk or peddle any goods, wares or merchandize, or any wooden clock, or the machinery or materials thereof, or any jewelry, not of the growth, produce, or manufacture of this State, within the limits of any county, without first obtaining an order for a license from the Court of Pleas and Quarter Sessions of such county; which order shall be granted only when seven or more justices of such court are present, and upon satisfactory evidence of the good moral character of the applicant: *Provided*, that none of the provisions of this act shall be so construed as to extend to such person or persons being resident citizens of this State, who may hereafter hawk and peddle in this State, books and prints exclusively, except that they shall obtain license to peddle, but without paying the tax or other expense, except that of procuring license; and upon the same being granted, the clerk shall give to the party so applying for license, a certificate thereof; for which the said clerk may demand and receive of the applicant the sum of eighty cents; and it shall be the duty of the clerk to transmit annually to the Comptroller, at the time he transmits his list of taxable property, the names of all such applicants. Pedlers must obtain a license from co'ty court. Proviso.

II. Be it further enacted, That the party applying for license as aforesaid, shall immediately on obtaining a certificate thereof from the clerk, deliver the same to the sheriff, and pay into his hands a tax of twenty dollars, and receive therefor a license signed by the Comptroller, and countersigned by the sheriff, as directed by the provisions of an act passed in the year 1822, entitled "an act to provide a revenue for the payment of the civil list and contingent charges of Government," which said license shall endure for the term of one year thereafter. Tax of $20 to be paid to Sheriff.

III. Be it enacted, That if any person shall hawk or peddle any of the articles above recited, not of the growth, produce or manufacture of this State, in any county, without having previously paid the tax herein-before imposed, and obtained a license as aforesaid, or who shall refuse or neglect, upon the request of the sheriff, or his lawful deputy, or any justice of the peace, to shew such license, he, she, or Penalty.

they, shall be subject to indictment in the county or superior court of such county—and on conviction, shall be fined or imprisoned, at the discretion of the court.

Repealing clause.

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

CHAPTER XVIII.

AN ACT to provide for the temporary appointment of Registers, in certain cases

3 justices may appoint registers, in case of vacancy.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That whenever, hereafter, a vacancy shall occur in the office of Register, in any county of this State by death or otherwise, in the interval between the county courts, it shall be lawful for any three justices of the peace of such county, to meet at the office of the clerk of the court of Pleas and Quarter Sessions of such county, and nominate and appoint a Register; who shall give bond and take the oath as at present required by law from Registers regularly appointed, and shall take into his custody the books and records—be bound to perform all the duties, and be invested with all the powers, authorities, and emoluments pertaining to said office; and the register thus appointed, shall hold his office until an appointment shall be made by the Court of Pleas and Quarter Sessions, in the manner now prescribed by law.

Clerk to record said appointment.

II. Be it further enacted, That it shall be the duty of the clerk of the Court of Pleas and Quarter Sessions, to record the appointment so made in vacation, on the records of said court; for which he shall be entitled to the same compensation that he now receives for recording an appointment made in open court.

CHAPTER XIX.

AN ACT declaratory of the duties of Entry Takers, in certain cases.

In case of death, successor to issue warrants in certain cases.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That in all cases where an entry shall be made in the office of any entry taker of this State, and such entry taker shall die or resign, before a warrant shall be issued thereupon, it shall be the duty of the successor of said entry taker, after being duly appointed and qualified, to issue a warrant upon such entry in the same manner as the original entry taker might have done if no vacancy in the office had occurred: *Provided, nevertheless*, that nothing herein contained shall be construed to authorize the issuing of warrants in cases now prohibited by law, where the application therefor shall not be made in due time.

CHAPTER XX.

AN ACT concerning the Board for Internal Improvement.

In case of vacancy, Gov'r and Treas'r to act.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That if it shall so happen that the General Assembly shall at any time fail to elect a person to constitute a member of the board for internal improvement, or the person so elected shall refuse or fail to act, or a vacancy shall occur from any other cause whatsoever, the said board shall not thereby cease to be a corporation, but the Governor and Treasurer of the State shall constitute a board, which shall possess, exercise and enjoy all the powers, rights and privileges, and perform all the duties of the President and directors of the board for internal improvement.

II. Be it further enacted, That if at any time during such vacancy the interest of the State shall require the services of another member of the board, the Governor of the State shall appoint some fit person to fill said vacancy; and the person so appointed shall possess all the powers, perform all the duties, and receive the same compensation as if such appointment had been made by the General Assembly, as now provided by law. Gov'r may fill vacancy.

III. And be it further enacted, That this act shall be in force from and after the ratification thereof. When to be in force.

CHAPTER XXI.

AN ACT to give further time for paying in Entry money.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That it shall be lawful for all persons who have made entries in the years one thousand eight hundred and thirty-two, and one thousand eight hundred and thirty three, and have had the same surveyed, and who have sent on, or may send on, their plat and certificate to the secretary, and failed to pay in the entry money, to have until the fifteenth day of December next, for paying in the same: *Provided*, that nothing in this act contained shall be so construed as to interfere with any other person who has made entries before the passage of this act. Extends the time to 15th December.

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

CHAPTER XXII.

An ACT to amend an act passed in one thousand eight hundred and thirty, entitled an act for the better regulation of the patrol.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That so much of the second section of the above recited act, as relates to the laying of a tax upon each taxable slave, for the support of the patrol, so far as respects the county of Camden, be, and the same is hereby repealed; and that it shall hereafter be the duty of the county court of said county, at the usual time for the laying of taxes for other purposes, to lay a tax of twenty-five cents on each taxable slave, for the support of the patrol. Repeals 2nd section, so far as respects Camden co.

II. Be it further enacted, That any person who shall hereafter be appointed as one of the patrol committee, and who shall refuse or neglect to perform or discharge the duties imposed upon them by the first section of the above recited act, shall be subject to a penalty of twenty five dollars; to be recovered on motion to the court by the prosecuting officer of said county,—and when recovered, shall be paid over to the county trustee, to form a fund in aid of the tax in support of the patrol. Penalty for failing to act as patrol.

CHAPTER XXIII.

AN ACT making an appropriation for carrying on and completing the Capitol of the State.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That the sum of seventy-five thousand dollars be, and the same is hereby appropriated, for carrying on and completing the Capitol now being erected in the city of Raleigh. And the commissioners appointed by law, are hereby authorised, or a majority of them, to draw on the Public Treasurer of this State, for such sums out of the said appropriation as Appropriates $75,000.

they, or a majority of them, may require from time to time, in the progress of said work; and the warrants of said commissioners shall be a sufficient authority to the Treasurer for the payment of the sums so required.

CHAPTER XXIV.

AN ACT to provide for the Election of Registers in this State, when any vacancy may hereafter arise by reason of death, resignation or otherwise.

Co'ty court to make the appointment, in case of vacancy.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That when any vacancy may arise hereafter in any county in this State, in the office of the Register of such county, it shall be the duty of the county court wherein such vacancy may happen—seven justices being present—to elect some suitable person of such county to be Register, for the term of four years next succeeding his appointment; who shall give bond in the manner already prescribed by law; and after the expiration of the term of four years for which any person may be appointed Register, for any county, under this act, the county court shall elect Registers for their respective counties, for the term of four years, who shall give bond in the manner already prescribed by law.

Read three times and ratified in General Assembly, December 22nd, 1835.

WILL. H. HAYWOOD, Jr., *S. H. C.*
W. D. MOSELY, *S. S.*

A true copy,
WM. HILL, *Secretary.*

CHAPTER XXV.

AN ACT to incorporate the Raleigh and Gaston Rail Road Company.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That it shall be lawful to open books in the city of Raleigh, under the direction of George W. Mordecai, Wm. Boylan, Thomas P. Devereux, Duncan Cameron, William H. Haywood, Jr. Charles Manly, Samuel F. Patterson, Alfred Jones, Beverly Daniel, and Charles L. Hinton, or any three of them; at Louisburg, under the direction of William H. Battle, Samuel Johnson, William P. Williams, Henry G. Williams, and Williamson Gatewood, or any three of them; at Nashville, under the direction of Benjamin Blount, Henry Blount, Samuel Blount, Willis Boddie, and James Battle, or any three of them; and at Warrenton, under the direction of Thomas White, Benjamin Cook, Henry Fitts, Jacob Faulcon, William K. Kearney, and Jos. W. Hawkins, or any three of them; and at Oxford, under the direction of Rhodes N. Herndon, Thomas B. Littlejohn, Benjamin Kittrell, Jas. Cooper, and Thomas Lewis, or any three of them; and at Gaston, under the direction of William W. Wilkins, John T. Weaver, James Vincent, David Clements, and John B. Putney, or any three of them; and at such other places, and under the direction of such other persons, as any three of the commissioners herein before named, to superintend the receiving of subscriptions at Raleigh, shall direct; for the purpose of receiving subscriptions to an amount not exceeding eight hundred thousand dollars, in shares of one hundred dollars each, for the purpose of effecting a communication, by a Rail Road, from some point in or near the city of Raleigh, to the termination of the Greensville and Roanoke Rail Road, at or near Gaston, heretofore called Wilkins' Ferry, and for providing every thing necessary and convenient for the purpose of transportation on the same.

2. The times and places for receiving subscriptions, shall be advertised in one or more newspapers published in the city of Raleigh, and towns of Warrenton and Oxford; and the books for receiving the same, shall not be closed in less than ten days; and if it shall appear that more than eight thousand shares of the capital stock aforesaid, shall have been subscribed for within the said ten days, it shall be the duty of the said commissioners at Raleigh, or any five of them, to reduce the number of shares subscribed for among the subscribers, in fair and equal proportions to the amount of stock subscribed for respectively by each, until the whole amount of shares shall be reduced to eight thousand; but if the whole amount shall not be subscribed for within ten days from the time the books shall be opened to receive subscriptions, then the books may be closed or continued open, or closed and re-opened, without farther notice, as a majority of the above named commissioners at Raleigh may judge to be most expedient, until the whole number of shares shall be subscribed for.

3. When three thousand shares shall be subscribed for in manner aforesaid, the subscribers, their executors, administrators or assigns, shall be, and they are hereby declared to be incorporated into a company by the name and style of the Raleigh and Gaston Rail Road Company, and by that name shall be capable in law of purchasing, holding, selling, leasing and conveying, estates real, personal, and mixed, so far as shall be necessary for the purpose hereinafter mentioned, and no farther; and shall have perpetual succession, and by said corporate name, may sue and be sued, and may have and use a common seal, which they shall have power to alter or renew at their pleasure, and shall have and enjoy, and may exercise all the powers, rights and privileges, which other corporate bodies may lawfully do, for the purposes mentioned in this act; and may

make all such by-laws, rules and regulations, not inconsistent with the laws of this State, or of the United States, as shall be necessary for well-ordering and conducting the affairs of the Company.

4. Upon any subscription of stock as aforesaid, there shall be paid at the time of subscribing, to the said commissioners or their agents appointed to receive such subscriptions, the sum of two dollars on every share subscribed, and the residue thereof shall be paid in such instalments and at such times as may be required by the President and Directors of said Company. The said commissioners or their agents shall forthwith, after the first election of President and Directors of the Company, pay over to the said President and Directors, all monies received by them; and on failure thereof, the said President and Directors, may recover the amount due from them, or from any one or more of them, by motion on ten days previous notice in the Court of Pleas and Quarter Sessions, or the Superior Court of Law, of any county wherein such commissioner or commissioners, their executors or administrators may reside, or by warrant before a Justice of said county.

5. When three thousand shares or more of the stock shall have been subscribed, public notice of that event shall be given by three or more of the said commissioners at Raleigh, who shall have power at the same time, to call a general meeting of the subscribers, at such convenient place and time, as they shall name in said notice. To constitute any such meeting, a number of persons, entitled to a majority of all the votes which could be given upon all shares subscribed, shall be present, either in person or by proxy; and if a sufficient number to constitute a meeting do not attend on that day, those who do attend shall have power to adjourn, from time to time, until a meeting shall be formed.

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

7. The President and Directors of the said Company shall be, and they are hereby invested with all the rights and powers necessary for the construction, repair, and maintaining of a Rail Road, to be located as aforesaid, with as many sets of tracks, as they or a majority of them may deem necessary, and may cause to be made, and also to make and continue all works whatever, which may be necessary and expedient, in order to the proper completion of the said Rail Road.

8. The said President and Directors shall have power to make contracts with any person or persons, on behalf of the company, for making the said Rail Road, and performing all other works respecting the same, which they shall judge necessary and proper, and to require from the subscribers, from time to time, such advances of money on their respective shares as the wants of the Company may demand, until the whole of their subscriptions shall be advanced: to call, on any emergency, a general meeting of the subscribers, giving one month's notice thereof in one of the newspapers printed in the city of Raleigh. To appoint a Treasurer, Clerk, and such other Officers as they may require, and to transact all the business of the Company during the intervals between the general meetings of the stockholders.

9. If any stockholder shall fail to pay the sum required of him by the President and Directors or a majority of them, within one month after the same shall have been advertised in one of the newspapers published in the city of Raleigh, it shall and may be lawful for the President and Directors, or a majority of them, to sell at public auction, and to convey to the purchaser, the share or shares, of such stockholder so failing or refusing, giving one month's previous notice of the time and place of sale in manner aforesaid: and after retaining the sum due and all charges of the sale out of the proceeds thereof, to pay the surplus over to the former owner, or to his legal representative; and if the said sale shall not produce the sum required to be advanced, with the incidental charges attending the sale, then the President and Directors may recover the balance of the original proprietor or his assignee, or the executor or administrator of either of them, by suit in any Court of record having jurisdiction thereof, or by warrant before a justice of the county, of which he is a resident; and any purchaser of the stock of the company, under the sale by the President and Directors, shall be subject to the same rules and regulations as the original proprietors.

10. Be it further enacted, That if the capital stock of the company hereby incorporated, shall be found insufficient for the purpose of this act, it shall and may be lawful for the president and directors of the said company, or a majority of them, from time to time, to increase the said capital stock to an amount not exceeding one million of dollars, by the addition of as many shares as they may deem necessary—first giving to the individual stockholders, for time being, or their legal representatives, the option of taking such additional shares in proportion to the amount of stock respectively held by them—and opening books of subscription in the city of Raleigh, and towns of Warrenton, and Louisburg, and Oxford, and Nashville, as is herein prescribed for the original stock of the company, for any balance of capital stock created, which may not be taken by the stockholders for the time being, or in their behalf; and the subscribers for such additional shares of the capital stock in the said company, are hereby declared to be thenceforward incorporated into the said company, with all the privileges and advantages, and subject to all the liabilities of the original stockholders.

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

12. Be it further enacted, That the said president and directors, their officers, agents and servants, shall have full power and authority to enter upon all lands and tenements through which they may desire to conduct their Rail Road, and to lay out the same according to their pleasure, so that the dwelling house, kitchen, yard or garden of no person be invaded without his consent; and they shall have power to enter in and lay out such contiguous land as they may desire to occupy as sites for depots, toll-houses, ware-house, engine sheds, work shops, water stations, and other buildings, for the necessary accommodation of their officers, agents and servants, their horses, mules and other cattle, and for the protection of the property entrusted to their care: Provided, that the land so laid out on the line of the Rail Road, shall not exceed (except at deep cuts and fillings) eighty feet in width—and that the adjoining land for the sites of buildings (unless the president and directors

can agree with the owner or owners for the purchase of the same,) shall not exceed one and a half acre, in any one parcel. If the president and directors cannot agree with the owner or owners of the lands so entered on and laid out by them, as to the terms of purchase, it shall be lawful for them to apply to the Court of Pleas and Quarter Sessions of the county in which such land, or the greater part thereof may lie; and upon such application, the court shall appoint five disinterested and impartial freeholders to assess the damages to the owner from the condemnation of the land, for the purpose aforesaid. No such appointment, however, shall be made, unless ten days previous notice of the application shall have been given to the owner of the land, or to the guardian, if the owner be an infant, or to the committee, the owner being *non compos mentis*, if such owner, guardian or committee, can be found within the country—or if he cannot be so found, then such appointment shall not be made, unless notice of the application shall have been published at least one month next preceding, in some newspaper printed as convenient as may be to the court house of the county, and shall have been posted at the door of the court house on the first day at least of the next preceding term of the said court. A day for the meeting of said freeholders to perform the duty assigned them, shall be designated in the order appointing them; and any one or more of them attending on that day, may adjourn from time to time until their business shall be finished. Of the five freeholders so appointed, any three or more of them may act, after having been duly sworn or solemnly affirmed, before some justice of the peace, that they will impartially and justly, to the best of their ability, ascertain the damages which will be sustained by the proprietor of the land, from the consideration thereof, for the use of the company, and that they will truly certify their proceedings thereupon, to the court of the said county.

13. It shall be the duty of the said freeholders, in pursuance of the order appointing them, assemble on the land proposed to be condemned, and after viewing the same, and hearing such proper evidence as either party may offer, they shall ascertain according to the best judgment, the damages which the proprietor of the land will sustain by the consideration thereof, for the use of the Company. In performing this duty, they shall consider the proprietor of the land as being the owner of the whole fee simple interest therein. They shall take into consideration the quality and quantity of the land to be condemned; the additional fencing that will be required thereby; and all other inconveniences which will result to the proprietor from the consideration thereof.

14. When the said freeholders shall have agreed upon the amount of damages, they shall forthwith make a written report of their proceedings, under their hands and seals, in substance as follows: We, freeholders, appointed by an order of the Court of Pleas and Quarter Sessions, for the purpose of ascertaining the damages that will be sustained by the proprietor of certain lands in the said county, which the president and directors of the Raleigh and Gaston Rail Road Company propose to condemn, for their use, do hereby certify that we met together, on the land aforesaid, on the day of , the day appointed therefor by the said order, (or the day to which we were regularly adjourned from the day appointed for our meeting, by the said order) and that having been first duly sworn, and having visited the premises, we proceeded to estimate the quantity and quality of the land aforesaid, the quantity of additional fencing which would probably be occasioned by its condemnation, and all other inconveniences which seemed to us likely to result therefrom, to the proprietor of said land. That under the influence of these considerations, we have estimated, and do hereby assess the damages aforesaid, at the sum of . Given under our hands and seals this day of . At the foot of the report so made, the magistrate before whom the said freeholders were sworn shall make a certificate in substance as follows:—" . county, set: I, , a justice of the peace of said county, do hereby certify that the above named freeholders, be-

fore they executed their duties as above certified, were solemnly sworn (or affirmed) before me, that they would impartially and justly, to the best of their ability, ascertain the damages which would be sustained by the above named , by the condemnation of the above mentioned land, for the use of the Gaston and Raleigh Rail Road Company, and that they would certify truly their proceedings thereupon, to the Court of said county. Given under my hand this day of ."

15. The report of the freeholders so made, together with the certificate of the justice of the peace, as aforesaid, shall be forthwith returned by the said freeholders to the Court of the county; and unless good cause be shown against the report, it shall be confirmed by the Court and entered on record. But if the said report should be disaffirmed, or if the said freeholders being unable to agree, should report their disagreement, or if from any other cause, they should fail to make a report within a reasonable time after their appointment, the Court may, in its discretion, as often as may be necessary, supersede them—or any of them—appoint others in their stead, and direct another view and report to be made in the manner above prescribed.

16. On the confirmation of any such report, and on payment, or tender, to the proprietor of the land, of the damages so assessed, or the payment of said damages into Court, when for good cause shown the Court shall so have ordered it, the land reviewed and assessed as aforesaid, shall be vested in the Raleigh and Gaston Rail Road Company, and they shall be adjudged to hold the same in fee simple, in the same manner as if the proprietor had sold and conveyed it to them.

17. While these proceedings are depending for the purpose of ascertaining the damages to the proprietor for the condemnation of his land, and even before they shall have been instituted, the president and directors, if they think that the interest of the Company requires it, may, by themselves, their officers, agents and servants, enter upon the lands laid out by them as aforesaid, and which they desire to condemn, and apply the same to the use of the Company. If when they so take possession, proceedings to ascertain the damages as aforesaid be pending, it shall be their duty diligently to prosecute them to a conclusion. And when the report of the freeholders, ascertaining the damages, shall be returned and confirmed, the Court shall render judgment in favor of the proprietor of the land, for the amount thereof; and either compel its payment into Court, as to them shall seem right.

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

19. If the president and directors shall take possession of any land, before the same shall have been purchased by them, or condemned and paid for according to the provisions of this act; and shall fail for forty days to institute proceedings for its condemnation as aforesaid; or shall not prosecute with due diligence, the proceedings commenced for that purpose, it shall be lawful for the proprietor of the land, upon giving to the said president and directors, or any one of them, ten days previous notice, to apply to the Court of the county in which the land or the greater part thereof shall lie; and upon such application, the Court shall appoint five disinterested and impartial freeholders to assess the damages to the owner from the condemnation of his land for the use of the Company, shall appoint a day for their meeting to report the duties assigned them; and shall dismiss, at the cost of the Company, any proceeding then depending on their behalf, for the condemnation of the said land. The freeholders so appointed, any three or more of whom may act, shall proceed in the performance of their duties, in all respects, in the same manner as if they had been appointed on the application of the president and direc-

tors of the Company. And the Court shall, in like manner, confirm or disaffirm their report; supersede them, or any of them, and appoint others in their stead; or direct another view and report to be made, as often as may be necessary. And when any such report, ascertaining the damages, shall be confirmed, the Court shall render judgment in favor of the proprietor, for the damages so assessed, and double costs; and shall thereupon either compel the Company to pay into Court the damages and costs so adjudged, or award a process of execution therefor, as to them shall seem right.

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

21. The said president and directors, for the purpose of constructing their Rail Road aforesaid, and the works necessarily connected therewith; or of repairing the same after they shall have been made; or of enlarging or otherwise altering the same, shall be at liberty, by themselves, their officers, agents or servants, at any time to enter upon any adjacent lands, and to cut, quarry, dig, take, and carry away therefrom, any wood, stone, gravel, or earth, which they may deem necessary. Provided, however, that they shall not, without the consent of the owner, cut down any fruit tree, or any tree preserved in any lot or field for shade or for ornament; nor take any timber, gravel, stone or earth, constituting any part of any fence or building. For all wood, stone, gravel, or earth taken under authority of this act; and for all incidental injuries done to the inclosures, crops, woods or grounds, in taking or carrying the same away, the said president and directors shall make to the owner, a fair and reasonable compensation; to be ascertained, if the parties cannot agree, by any three impartial and disinterested freeholders, who, being appointed for that purpose by any Justice of the Peace thereto required by the owner, shall be sworn by him, and shall then ascertain the compensation upon their own view, of the wood, stone, gravel or earth taken, and of the injury done as aforesaid in taking them. Provided, however, that it shall be the duty of the owner or owners, to show to the Justices of the Peace, to whom the application is made, that ten days previous notice of the time of making the same has been given to the president, or one of the principal Agents of the Rail Road company; and no award, which may be given under any appointment without such notice, shall be obligatory or binding on said company. Provided, however, that either party, not satisfied with the award which may be given as above, may appeal to the Court of Pleas and Quarter Sessions, of the county in which the land may be situated, who may, as in the case of assessment of land, confirm or disaffirm the report of the freeholders, supersede them or any of them, and appoint others in their stead, or direct another view and report to be made as often as may be necessary.

22. If the said president and directors, in entering upon the land of any person, under the authority of this act, for the purpose of laying out or constructing, enlarging, altering, or repairing any of their said works, shall, by themselves or their officers, do any wanton or willful injury to such land or its appurtenances; or to the crops growing or gathered; or to any other property thereon, the Raleigh and Gaston Rail Road Company shall pay to the person so injured, double the amount of the damages, which shall be assessed by a jury in any proper action therefor; or if said injury be done by any person or persons, who may have contracted with the company for the construction of any portion of their Rail Road or any of the works connected therewith, he or they shall be responsible to the party injured in the like amount.

23. Whenever in the construction of said Rail Road it shall become necessary to cross or intersect any established Road or way, it shall be the duty of the said president and directors, so to construct the said Rail Road across such establish-

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

24. That said President and Directors, or a majority of them, shall have power to purchase, with the funds of the Company, and place on the Rail Road, constructed under this act, all machines, wagons, vehicles, carriages and teams of any description whatsoever, which they deem necessary or proper for the purpose of transportation. Or if they should deem it most expedient to do so, they may contract with any other Rail Road Company or Companies, or with any individual or individuals, for effecting the transportation on the same.

25. All machines, wagons, vehicles and carriages purchased as aforesaid, with the funds of the Company, or engaged in the business of transportation on said Rail Road, and all the works of the said Company constructed, or property acquired under the authority of this act; and all profits which shall accrue from the same, shall be vested in the respective stockholders of the Company, forever, in proportion to their respective shares; and the same shall be deemed personal estate, and shall be exempt from any public charge or tax whatsoever for the term of fifteen years; and thereafter, the Legislature may impose a tax not exceeding 25 cents per annum, per share, on each share of the capital stock, whenever the annual profits thereof shall exceed six per cent.

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

27. They shall give no undue preference in transportation, to the property of one person over that of another: but as far as practicable shall carry each in the order of time in which it shall be delivered or offered for transportation, with the tolls paid or tendered. If the Company, or any of its officers or agents, shall fail to receive, transport or deliver in due time, any property so offered or delivered to them for transportation; or shall fail to take up, or set down, any passenger or passengers, at such convenient point as he or they may desire, upon the payment or tender of the passage money hereby allowed, they shall forfeit and pay to the party so injured, double the amount of the lawful toll paid or tendered; and shall, moreover, be liable to an action on the case, in which full damages and double costs shall be received.

28. So soon as any portion of the Rail Road hereby authorized, may be in readiness for transportation, it shall be lawful for the said president and directors, to

transport by their officers or agents, or by contractors under them, persons and property on the same; and they shall have power to charge for the transportation of persons, goods, produce, merchandize, and other articles, and for the transportation of the Mail, any sum not exceeding the following rates, viz: On persons, not exceeding six cents per mile for each person, unless the distance which any person be transported, be less than ten miles,—in which case, the president and directors may be entitled to make an extra charge of fifty cents, for taking up and putting down each person so transported:—for the transportation of goods, produce, merchandize and other articles, not exceeding an average of ten cents per ton per mile, and for the transportation of the Mail, such sums as they may agree for; and the said president and directors shall be furthermore entitled to demand and receive for the weighing, storage, and delivering of produce and other commodities at their depots and ware houses, rates, not exceeding the ordinary warehouse rates charged for such services.

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

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

31. An annual meeting of the subscribers to the stock of the said company, shall be held at such time and place in each year as the stockholders at their first general or at any subsequent meeting may appoint: to constitute which, or any general meeting called by the president and directors, according to the provisions of this act, the presence of proprietors entitled to a majority of all the votes, which could be given by all the stockholders, shall be necessary, either in person or by proxy properly authorized. And if a sufficient number do not attend on that day, or any day appointed for a general meeting, called by the directors as aforesaid, the proprietors who do attend may adjourn from time to time until a general meeting shall be had.

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

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

34. The works hereby required of the Raleigh and Gaston Rail Road Company shall be executed with diligence, and if they be not commenced within two years after the passage of this act, and finished within ten years after the first general meeting of the stockholders, then this charter shall be forfeited.

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

number of shares subscribed by him; which certificate shall be transferable by him—subject however, to all payments due or to become due, thereon; and such assignee having first caused the transfer or assignment, to be entered in a book of the Company, to be kept for the purpose, shall thenceforth become a member of the said Company, and shall be liable to pay all sums due, or which shall become due upon the stock assigned to him: Provided, however, that such assignment shall in no wise exempt the assignor or his representative, from the liability to the said Company for the payment of all such sums, if the assignee or his representative shall be unable or fail to pay the same

36. If any person or persons shall wilfully, by any means whatever, injure, impair, or destroy any part of the Rail Road constructed under this act, or any of the necessary works, machines, wagons, vehicles, carriages, or other property belonging to the said company, or shall place any obstruction upon said road, such person or persons shall be deemed guilty of a misdemeanor, and on conviction thereof, in the court of Pleas and Quarter Sessions or superior court of law of the county where the offence may be committed, shall be fined and imprisoned at the discretion of the court.

37. Be it further enacted, That if at any time hereafter, the above rates for toll and transportation shall enable the said president and directors, after the payment of all necessary expenses, and after setting apart a fair and reasonable sum for the renewal and repairs of the said Road, ware-houses, and depots, and other constructions, and of the machines, cars and other vehicles for transportation, to divide more than fifteen per cent. on their capital stock invested, that the said rates of toll and transportation shall be so reduced by the said president and directors as to enable them to divide fifteen per cent and no more.

38. Be it further enacted, That no person shall be eligible as president or director of said company unless he be a resident citizen of this State.

39. Be it further enacted, That it shall be the duty of the President of said company, on the first week in December, in each and every year, to transmit to the General Assembly a correct statement of all the receipts and expenditures of said company during the year preceding.

40, Be it further enacted, That when the General Assembly may be of opinion that the charter hereby granted shall have been violated, it may be lawful by joint resolution of the two Houses, to direct the Attorney General, with such assistant counsel as the Governor or Legislature may think proper to engage, to issue a writ of scire facias, returnable before the Judges of the Supreme Court, calling upon said corporation to show cause why their charter shall not be forfeited, subject to the same proceedings as are now prescribed by law, in case of other corporations.

41. Be it further enacted, That any Rail Road which may hereafter be constructed by the State or by any Company incorporated by the Legislature, shall be at liberty to cross the Road hereby allowed to be constructed, upon a level or otherwise, as may be most advantageous, provided the free passage of said Raleigh and Gaston Rail Road is not thereby obstructed.

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

43. Be it further enacted, That the corporate power herein granted shall be and enure for ninety years, and no longer, unless renewed by competent authority.

CHAPTER XXV.

AN ACT to incorporate the Cincinnati and Charleston Rail Road Company.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That for the purpose of establishing a communication, by Rail Road, between the cities of Cincinnati, in the State of Ohio, and Charleston, in the State of South Corolina, through the States of Kentucky, Tennessee, North Carolina, and South Carolina, the formation of a Company, to be called "the Cincinnati and Charleston Rail Road Company," is hereby authorized; which, when formed, shall have corporate existence in perpetuity in each of the States aforesaid.

2. Books for subscriptions, for sixty thousand shares of the capital stock of the said company, of one hundred dollars each, shall be opened, on the third Monday in October next, and shall be kept open for six[ty] days, between the hours of ten o'clock in the morning, and four o'clock in the evening, of each of those days, at the following places, and by the following Commissioners, viz: At Charleston and Columbia, and such other places in the State of South Carolina, and by three such commissioners, at each of the said places, as the Legislature or the Governor of the said State shall designate and appoint. At Ashville, Lincolnton and Rutherfordton, and such other places in the State of North Carolina, and by three such commissioners, at each of the said places, as the Legislature or Governor of the said last mentioned State shall designate and appoint. At Knoxville, Jonesborough and Newport, and at such other places in the State of Tennessee, and by three such commissioners in each of the said places, as the Legislature or Governor of the said last mentioned State shall designate and appoint: At Lexington, Frankford, Louisville, Wayesville, Paris and Richmond, and such other places in the State of Kentucky, and by three such commissioners, at each of the said places, as the Legislature or Governor of the said last mentioned State shall designate and appoint: At Cincinnati, in the State of Ohio, by Daniel Drake, E. D. Mansfield, and John S. Williams, and at such other places, and by three such commissioners, at each of said places, as the Governor of the said last mentioned State may designate and appoint: At Lawrenceburgh, and such other places in the State of Indiana, and by three such commissioners, in each of said places, as the Governor of the last mentioned State may direct and appoint.

3. That the said commissioners, or a majority of them, at each of the places aforesaid, or so as aforesaid to be designated, shall receive subscriptions for stock in the said Rail Road Company, during the times the said books are directed to be kept open; and on each share so subscribed, shall demand and receive the sum of five dollars, without which, the subscription shall be void.

4. That, as soon as the time for receiving subscriptions, so as aforesaid, shall have expired, the said commissioners shall respectively deposite all the money so received by them, in some incorporated Bank, redeeming its notes in specie in the State where the money shall have been received, to the credit of the Cincinnati and Charleston Rail Road Company; and shall also forward a correct list of all the subscribers to the said stock, with the number of shares each subscriber has taken, to a central commission, to be composed of the following persons: David L Swain of Asheville, Wade Hampton of Columbia, John Williams of Knoxville, William Dickon of Greenvill, Tennessee, and Robert Letcher, Kentucky; who, or a majority of whom, shall meet at Knoxville, on the first Monday in November next, ascertain the whole number of shares taken in the said company, and publish the same in some newspaper in each of the cities or towns of Cincinnati, Frankford, Lawrenceville, Knoxville, Raleigh, Columbia,

and Charleston, on or before the third Monday in November next; and if the number of forty thousand shares shall have been subscribed, on each of which, there shall have been paid the sum of five dollars, the Cincinnati and Charleston Rail Road Company, shall be regarded as formed; and the said central commission, or a majority of them, shall sign and seal four duplicate declarations to that effect, with the names of all the subscribers appended, and cause one of the said duplicates to be deposited in the office of the Secretary of State, in each of the States of Kentucky, Tennessee, North Carolina, and South Carolina, and thenceforth, and from the day of the closing of the books of subscription, as aforesaid, the said subscribers to the stock shall form a body politic and corporate, in deed and in law, in all the States aforesaid, by the name, and for the purposes aforesaid.

5. That in case any of the persons forming the said central commission, shall not attend at Knoxville, on the said first Monday in November next, or attending, shall refuse, or be unable to act, the remaining number or numbers of the said central commission, shall forthwith fill the vacancy; and the person or persons so appointed, shall constitute a part of the commission.

6. But if on closing the books aforesaid, the number of forty thousand shares shall not have been subscribed, then and in that case, the said central commission, by themselves or their agents, may receive subscriptions from any of the States of Ohio, Indiana, Kentucky, Tennessee, North Carolina, and South Carolina, and also from individuals and bodies corporate, till the number of sixty thousand shares shall have been subscribed: Provided, the same shall be done on or before the first day of January, one thousand eight hundred and thirty-seven; and when the said number of sixty thousand shares shall have been subscribed, if the same shall be done on or before the day last aforesaid, on that day if a less number, but amounting to forty thousand shares or more, shall have been then subscribed, the said subscriptions shall be closed: the subscribers shall thenceforth form a body corporate as aforesaid, and the declaration thereof shall be made and deposited in the offices of the Secretaries of State, in manner aforesaid. Subscriptions for stock, received by the said central commission, or their agents, shall be accompanied with the certificate of some specie paying Bank in some of the States, that an amount equal to five dollars on each share subscribed, has been deposited there by the subscriber, to the credit of said Company.

7. In case more than sixty thousand shares shall have been subscribed on closing the books when they are first opened, the shares shall be reduced to that number, by deducting the surplus shares from the highest subscribers, placing them on an equality of numbers, as far as can be done; and after such reduction, the holders of the remaining shares shall form the company, and be interested therein, in proportion to the number of shares which they may then respectively hold.

8. If on closing the books on the first day of January, in the year of our Lord one thousand eight hundred and thirty seven, the number of forty thousand shares shall not have been subscribed, the money paid by each subscriber shall be returned to him, by one or more of the commissioners who received it, endorsing on the receipt given for it a check on the Bank where it has been deposited, which the banks shall be bound to pay only in case the central commissioners, or a majority of them, shall have published a declaration, that the formation of the company has failed for the want of forty thousand shares having been subscribed.

9. The said Cincinnati and Charleston Rail Road Company so formed as aforesaid, shall have perpetual succession of members, may have a common seal, may sue and be sued, plead and be impleaded, in any court of law or equity in the States of Kentucky, Tennessee, North Carolina and South Carolina; and may make all such regulations, rules and bye laws, as are necessary for the government of the corporation or effecting the object for which it is created: Provi-

ded such regulations, rules and bye laws shall not be repugnant to the laws and constitution of the said States, or of the United States.

10. The officers of the said company shall be managed and directed by a general board to consist of twenty five directors, of whom three shall be elected from stock holders residing in each of the said States of Ohio, Kentucky, Tennessee, North Carolina, and South Carolina, and the remaining nine shall be elected from among all the Stock-holders, without regard to their place of residence.

11 The President of the Company shall be elected by the directors from among their own number, in such manner as the regulations of the corporation shall prescribe.

12. As soon as the number of forty thousand shares shall have been subscribed, in manner aforesaid, it shall be the duty of the commissioners appointed to declare the same, to appoint a time for the stock-holders to meet, at Knoxville in the State of Tennessee, which they shall cause to be published in one or more newspapers published in each of the States of Ohio, Indiana, Kentucky, Tennessee, North Carolina and South-Carolina, at which time and place the said stockholders, in person or by proxy, shall proceed to elect the directors of the company, and to enact all such regulations, rules and bye laws, as may be necessary for the government of the corporation and the transaction of its business. The persons elected directors at this meeting shall serve for such periods, not exceeding one year, as the stock-holders may direct, and at this meeting the stock-holders shall fix on a day and place or places where the subsequent elections of directors shall be held: and such elections shall thenceforth be annually made: But if the day of annual election shall pass without any election of directors, the corporation shall not thereby be dissolved but it shall be lawful on any other day to hold and make such election, in such manner as may be prescribed by a bye law of the corporation.

13 The Board of Directors, may fill up all vacancies which may occur in it during the period for which their board shall have been elected; and in the absence of the President, may fill his place by selecting a President pro tempore.

14. The General Board of Directors may establish under them a local board in each of the States of Kentucky, Tennessee, North Carolina, and South Carolina, to be composed of a President and eight members; and may entrust to such local board, so much of the business and affairs of the company as by the rules and regulations of the company may be prescribed.

15 All contracts and agreements authorized by the president and secretary of the general or of a local board, shall be binding on the company, without seal, or such other modes of authentication, may be used as the company, by their bye-laws, may adopt,

16. The board of directors shall not exceed in their contracts, the amount of the capital of the corporation, and of the funds which the company may have borrowed and placed at the disposal of the board; and in case they shall do so, the president and directors who may be present at the meeting, at which such contract or contracts so exceeding the amount aforesaid, shall be made, shall be jointly and severally liable for the excess—both to the contractor or contractors, and the corporation: *Provided*, that any one may discharge himself from such liability, by voting against such contract or contracts, and causing such vote to be recorded in the minutes of the board, and giving notice thereof to the next general meeting of the stockholders.

17. That the said company shall have power, and may proceed to construct as speedily as their means will permit, a Rail Road, with one or more tracks; to be used with steam, animal, or any other power, which shall pass through the State of Kentucky, Tennessee, North Carolina, and South Carolina, so as to form a continuous line of Rail Road between the cities of Cincinnati and Charleston;

the line of which road, shall be established by the general board of directors, subject to the control of the stockholders at a general meeting. The said company may use any section of the said Rail Road before the whole shall be completed; subject to the rules hereinafter mentioned.

18. Neither of the said States of South Carolina, North Carolina, Tennessee, nor Kentucky, shall, within the period of thirty-six years, from the first day of January, in the year one thousand eight hundred and thirty-six, authorize the construction of any Rail Road within twenty miles of the rail road so to be constructed by the Cincinnati and Charleston Rail Road Company, which shall connect any points or places on their rail road; or which shall run in the general direction thereof, without the consent of the said company.

19. The said company may construct branches of their road, provided such branches shall not conflict with any chartered rights existing at the time of their construction; and provided, that they shall be extended with no exclusive privileges, except the exclusive right of transportation of goods, wares, merchandise, produce and persons thereon, subject to the rules hereinafter mentioned

20. That the said company shall have the exclusive right of transportation or conveyance of persons, goods, merchandise and produce over the said rail road and its branches by them to be constructed: Provided, that the charge of transportation or conveyance, shall not exceed thirty-five cents per hundred pounds on heavy articles, and ten cents per cube foot, on articles of measurment, for every hundred miles, and five cents a mile for every passenger: And provided also, that the said company may, when they see fit, farm out their right of transportation on the said road or any of its branches, subject to the rules above mentioned.

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

22. The general board of directors may call for the payment of ninety-five dollars on each share of Stock, in sums not exceeding five dollars, in every sixty days, except that after eighty dollars have been paid on each share, the remaining twenty dollars may be called for in two instalments; which shall be at least sixty days apart, or the payments may be called for in smaller sums, and at more distant periods. The call for each instalment shall be advertised in one or more news papers in Cincinnati, Lawrenceburgh, Lexington, Frankford, Knoxville, Ashville, Columbia and Charleston, where newspapers shall be published; and such other places as may be directed by the rules of the company, at least one month before the time the same is to be paid, according to the rules of the company; and of the instalments so called for as aforesaid, shall induce a forfeiture of the share or shares, on which default shall be so made, and all payments thereon; and the same shall vest in and belong to the company, and may be appropriated as they shall see fit.

23. The stock of the said company may be transferred in such manner and form as may be directed by the bye-laws of the company.

24. The said company may at any time increase its capital to a sum sufficient to complete the said road and its branches, and stock it with every thing necessary to give it full operation and effect, either by opening books for new stock, or by selling such new stock, or by borrowing money on the credit of the company on the mortgage of its charter and works; and the manner in which the same shall be done, in either case, shall be prescribed by the stockholders at a general meeting.

25. It shall be lawful for the said company, from time to time, to vest so much or such parts of their Capital, or of their profits, as may not be required for immediate use, until it may be so required, in the public stocks of any of the States of

Ohio, Indiana, Kentucky, Tennessee, North Carolina, or South Carolina, or of any incorporated Bank in the said States, provided the sum so invested shall at no one time exceed one million of dollars.

26. The board of directors shall once in every year, at least, make a full report on the state of the company and its affairs, to a general meeting of the stockholders, and oftener if directed by a bye-law; and shall have power to call a general meeting of the stockholders, when the board may deem it expedient, and the company may provide in their bye-laws for occasional meetings being called, and prescribe the mode thereof; and the company may provide by a bye-law for the votes of stockholders for directors being taken at more than one place, as also for taking their votes on any question relative to the repeal, alteration or amendment of, or addition to, any of the rules, regulations, or bye-laws of the company, proposed by the general board of directors.

27. No person but a citizen of the United States, and being a bona fide stockholder in his own right of at least fifty shares, which he shall have had at least three months previous to his election, (except at the first election,) shall be president or director of the general board; nor shall any stockholder vote in person, or by proxy at any general, or other election, (except the first,) who shall not have had in his own right, the shares on which he offers to vote at least three months previous to such election.

28. The stockholders may provide by a bye-law, as to the number of stockholders, and the amount of stock to be held by them, which shall constitute a quorum for transacting business at any regular or occasional meeting of stockholders or directors.

29. No member of the general or local board of directors, or officers, or agents of the company, shall be directly or indirectly interested in any contract for work; nor shall any director vote on the passing of any bill for materials, in which he is directly or indirectly concerned, nor shall any director, officer, or agent be interested directly or indirectly in the purchase of any lands, buildings, or other property immediately on the line of Rail-road, or any branch thereof, without first having offered to the board of directors in writing the right of pre-emption, to all or any part of such lands, buildings, or other property, which the said board may think proper to purchase for the use of the company; and every director, officer, or agent violating this provision, may be removed from the board, his office or employment, by vote of the directors, and every purchase made in violation of this rule shall enure to the benefit of the company, if the board of directors choose to avail themselves thereof.

30. Any stockholder in the company may vote by proxy, who must be a resident citizen of the United States; and before he votes, he may be required by a stockholder to swear, that to his belief that the stock bona fide belongs to the person whom he represents. Before any stockholder votes in his own right, or for any estates, he may be required by any stockholder to swear, that he is the bona fide owner of the said stock in his own right, or as the legal representative of the testator, or intestate, whom he represents, and that no other person but himself, or the estate is directly or indirectly interested therein to his belief—any state holding stock, may vote by such person as the Legislature or Governor thereof may appoint, or as may be appointed in any other way pursuant to the laws of the State made for that purpose.

31. That in the election of directors, and in voting on all questions, which may come before a meeting of the stockholders, or which may be submitted to the decision of the stockholders, in any other manner, the votes shall be taken according to the following scale: The owner of one or two shares, shall be entitled to one vote; the owner of not less than three, nor more than four shares, shall be entitled to two votes; the owner of not less than five nor more than six shares, shall be entitled to three votes; the owner of not less than seven, nor more than eight

shares, to four votes; the owner of not less than nine, nor more than eleven shares to five votes; the owner of not less than twelve, nor more than fifteen shares to six votes; the owner of not less than sixteen, nor more than twenty shares to seven votes; the owner of not less than twenty one, nor more than twenty six shares to eight votes; the owner of not less than twenty seven shares, nor more than thirty three shares to nine votes; the owner of not less than twenty four shares, nor more than forty shares to ten votes; and the owner of every ten shares above forty shall be entitled therefor to one vote. Provided, that no individual corporation, nor state holding stock in the said company shall be entitled to more than five hundred votes, and one vote for every fifty shares, over five thousand shares. Any person being a subscriber or stockholder, who may offer to vote as a proxy, may be required by any subscriber or stockholder, to swear that he has no interest directly or indirectly, in the stock, on which he so offers to vote as proxy. A trustee of stock shall not vote on shares held by him in trust, expressed or declared, where the cestue que trust holds other shares, either in his own name, or in the name of another trustee. But the cestue que trust may vote on all shares owned by him, whether legally or equitably, according to the scale aforesaid.

32. The said company may purchase, have and hold, in fee or for a term of years, any lands, tenements, or hereditaments, which may be necessary for the said road, or any branch, or appurtenance thereof; or for the erection of depositaries, store-houses, houses for the officers, servants or agents of the company, or for work shops, or foundaries, to be used for the said company, or for procuring timber, stone, or other materials necessary to the construction of the road, its branches or appurtenances, or for effecting transportation thereon; and for no other purpose whatever.

33. The said company shall have the right, when necessary, to conduct the said rail road, or any branch thereof, across or along any public road or water course; provided, that the said road and the navigation of such water course shall not be thereby obstructed.

34. The said company may purchase, have and hold any bridge, or turnpike road, over which it may be necessary to carry the said rail-road; and when such purchase is made, to hold the said bridge, or turnpike road on the same terms, and with all the rights, which belonged to the individuals or corporation, from which such purchase may be made. Provided, that the said company shall not obstruct any public road, without constructing another as convenient as may be.

35. That where any lands or right of way may be required by the said company for the purpose of constructing their road, and for want of agreement as to the value thereof, or from any other cause the same cannot be purchased from the owner or owners, the same may be taken at a valuation to be made by five commissioners, or a majority of them, to be appointed by any court of record having common law jurisdiction in the county or district where some part of the land or right of way is situated—and the said commissioners before they act shall severally take an oath before some justice of the peace faithfully and impartially to discharge the duty assigned them. In making the said valuation—the commissioners shall take into consideration the loss or damage which may occur to the owner or owners in consequence of the land being taken or the right of way surrendered, and also the benefit and advantage he she or they may receive from the erection or establishment of the rail road or works; and shall state particularly the nature and amount of each and the excess of loss and damage over and above the benefit and advantage shall form the measure of valuation of the said land, or right of way. The proceedings of the said commissioners, accompanied with a full description of the said land, or right of way, shall be returned under the hands and seals of a majority of the commissioners to the court of from which the commission issued, there to remain of record In case either party to the proceedings shall appeal from the said valuation to the next session of the court granting

the commission, and give reasonable notice to the opposite party of such appeal, the court upon satisfactory proof that the appellant has been injured, by the said valuation, shall order a new valuation to be made by a jury, who shall be charged therewith in the same term, or as soon as practicable, and their verdict shall be final and conclusive between the parties, unless a new trial shall be granted: and the lands or right of way so valued by the commissioners or jury, shall vest in the said company in fee simple so soon as the valuation may be paid, or when refused may be tendered where there shall be an appeal as aforesaid from the valuation of commissioners, by either of the parties, the same shall not prevent the works intended to be constructed from proceeding: but when the appeal is made by the company, requiring the surrender, they shall be at liberty to proceed in their work, only on condition of giving to the opposite party a bond with good security, to be approved of by the clerk of the court where the valuation is returned, in a penalty equal to double the said valuation, conditioned for the payment of the said valuation and interest—in case the same be sustained, and in case it be reversed, for the payment of the valuation thereafter to be made by the jury and confirmed by the court.

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

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

38. That if any person or persons shall intrude upon the said rail road, or any branch thereof, or part thereof, by any manner of use thereof; or of the rights and privileges connected therewith, without the permission, or contrary to the will of the said company, he, she, or they shall forthwith forfeit to the said company all the vehicles that may be so intruded on the said road, and the same may be seized by the company or its agents, or recovered by suit at law, and the person or persons so intruding may be also indicted for a misdemeanor, and upon conviction, fined and imprisoned by any court of competent jurisdiction.

39. If any person shall wilfully and maliciously destroy, or in any manner hurt, damage, or obstruct, or shall willfully and maliciously cause or aid or assist, or counsel and advise any other person or persons, to destroy or in any manner to hurt, damage, injure, or obstruct the said rail road, or any branch thereof, or any bridge or vehicle used for, or in the transportation thereon, such person or persons so offending shall be liable to be indicted therefor, and on conviction shall

be imprisoned not more than six, nor less than one month, and pay a fine not exceeding five hundred dollars, nor less than twenty dollars, at the discretion of the court, before which such conviction shall take place, and shall be further liable to pay all the expenses of repairing the same; and it shall not be competent for any person so offending against the provisions of this clause, to defend himself, by pleading or giving in evidence, that he was the owner, or agent, or servant of the owner of the land where such destruction, hurt, damage, injury or obstruction was done or caused at the time the same was caused or done.

40. Every obstruction to the safe and free passage of vehicles, on the said road or its branches, shall be deemed a public nuisance, and may be abated as such by any officer, agent, or servant of the company; and the person causing such obstruction, may be indicted and punished [as] for erecting a public nuisance.

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

42. The profits of the company, or so much thereof as the general board may deem advisable, shall, when the affairs of the company will permit, be semi-annually divided among the stockholders, in proportion to the stock each may hold.

43. That the capital stock in the said company, the dividends thereon, and all the property and estates, real and personal, belonging to the said company, shall be forever exempt from taxation, in each and every of the said States of South Carolina, North Carolina, Tennessee and Kentucky, and it shall not be lawful for either of the said States, or any corporate municipal police or other authority thereof, or of any town, city, county, or district thereof, to impose any tax on such stock or dividends, property, or estates, provided that the said stock or dividends, when the said dividends shall exceed the legal interest of the State, may be subject to taxation by the State, in common with other money at interest, and interest thereon.

44. That the following officers and persons in the actual service of the said company, be and hereby are exempt from the performance of jury and ordinary militia duty, viz: the president of the general, and local board, the chief and assistant engineers, the secretaries, auditors and accountants of the boards, keepers of the depositories, guards stationed on the road, to protect it from injury, not exceeding one man to every five miles, and such persons as may be working the locomotive engines, and travelling with cars for the purpose of attending to the transportation of goods or passengers, on the road, not exceeding one engineer and his assistant to each locomotive engine, and one person to each passenger car, and every five cars for transporting goods.

45. The said company is hereby expressly prohibited from carrying on any Banking operations—and from effecting any insurance on lives or property, except on goods transported on the said rail road, or its branches, or in the company's custody, for or in consequence of such transportation.

46. And the said company shall be entitled only to such power and privileges, as shall be granted to it by all the Legislatures incorporating it, and the power necessary and proper to give them effect, and shall be subject to all the restrictions and disabilities which may be imposed on it, by any of the said Legislatures, by the act of incorporation, so that the power, privileges and disabilities, may be similar in all the States of Kentucky, Tennessee, North Carolina and South Carolina.

47. This act shall be in operation, and void unless acts for a similar purpose

are enacted by the Legislature of the States of South Carolina, Tennessee, Kentucky and Ohio.

48. This act shall be regarded as a public act, may be given in evidence as such, in all cases without special pleading.

CHAPTER XXVII.

AN ACT to incorporate the Raleigh and Fayetteville Rail Road Company.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That it shall be lawful to open Books in the City of Raleigh, under the direction of Thomas Devereux, William H Haywood, jun. Duncan Cameron, William Boylan, S. F Patterson and C. Manly, or any three of them; and in the town of Fayetteville, under the direction of Lewis D. Henry, H. Campbell, J. N. Cameron, C. P. Mallett, E. L. Winslow, J. D. Starr, J. H. Hooper and John H. Cook, or any three of them; in Wilmington under the direction of Edward B Dudley, Aaron Lazarus, Gab. Holmes, Alexander McRae and Alexander Anderson, or any three of them; in the town of Hillsborough, in the county of Orange, under the direction of Cad. Jones, William A. Graham, John W. Kirkland, Thomas Clancy, James Smith and James Webb, or any three of them; and at such other places, and under the direction of such other persons as any three of the commissioners herein before named, to superintend the receiving of subscriptions at Fayettville, shall direct; for the purpose of receiving subscriptions to an amount not exceeding eight hundred thousand dollars in shares of one hundred dollars each, for the purpose of effecting a communication by a rail road from some point in or near the town of Fayettville, to the city of Raleigh, and for providing every thing necessary and convenient for the purpose of transportation on the same. The times and places for receiving subscriptions, shall be advertised in one or more newspapers, published in the city of Raleigh, and town of Fayettville; and the books for receiving the same, shall not be closed in less than ten days; and if it shall appear that more than eight thousand shares of the capital stock aforesaid, shall have been subscribed for, within the said ten days, it shall be the duty of the said commissioners at Fayetteville, or any five of them, to reduce the number of shares subscribed for, among the subscribers, in fair and equal proportions to the amount of stock subscribed for respectively by each, until the whole amount of shares shall be reduced to eight thousand; but if the whole amount shall not be subscribed for within ten days, from the time the books shall be opened to receive subscriptions, then the books may be closed or continued open, or closed and re-opened, without further notice, as a majority of the above named commissioners at Fayetteville may judge to be most expedient, until the whole number of shares shall be subscribed for

When three thousand shares shall be subscribed in manner aforesaid, the subscribers, their executors, administrators or assigns, shall be, and they are hereby declared to be incorporated into a company by the name and style of the "Raleigh and Fayetteville Rail Road Company;" and by that name, shall be capable in law of purchasing, holding, selling, leasing and conveying, estates real, personal and mixed, so far as shall be necessary for the purpose herein after mentioned, and no farther; and shall have perpetual succession, and by said corporate name, may sue and be sued, and may have and use a common seal which they shall have power to alter or renew at their pleasure, and shall have and enjoy, and may exercise all the powers, rights and privileges, which other corporate bodies may lawfully do, for the purposes mentioned in this act; and may make all such by-laws, rules and regulations, not inconsistent with the laws of this State, or of the United States, as shall be necessary for well-ordering and conducting the affairs of the company.

Upon any subscription of stock as aforesaid, there shall be paid at the time of subscribing, to the said commissioners or their agents appointed to receive such subscriptions, the sum of two dollars on every share subscribed, and the residue thereof shall be paid in such instalments, and at such times, as may be required by the president and directors of said company.

The said commissioners or their agents shall forthwith, after the first election of president and directors of the company, pay over to the said president and directors, all monies received by them, and in failure thereof, the said president and directors may recover the amount due from them, or from any one or more of them, by motion on ten days previous notice in the Court of Pleas and Quarter Sessions, or the Superior Court of Law, of any county where such commissioner or commissioners, their executors or administrators, may reside, or by warrant before a justice of said county.

When three thousand shares or more of the stock shall have been subscribed, public notice of that event shall be given by any three or more of the said commissioners at Fayetteville, who shall have power at the same time to call a general meeting of the subscribers, at such convenient place and time as they shall name in said notice.

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

The president and directors of the said company shall be, and they are hereby invested with all the rights and powers necessary for the construction, repair, and maintaining of a rail road to be located as aforesaid, with as many sets of tracts, as they or a majority of them may deem necessary, and may cause to be made, and also to make and construct all works whatsoever, which may be necessary and expedient in order to the proper completion of the said rail road.

The said president and directors shall have power to make contracts with any person or persons, on behalf of the company, for making the rail road, and performing all other works respecting the same, which they shall judge necessary and proper, and to require from the subscribers, from time to time, such advances of money on their respective shares, as the wants of the company may demand, until the whole of their subscriptions shall be advanced: to call on any emergency, a general meeting of the subscribers, giving one months notice thereof in one of the newspapers printed in the city of Raleigh and town of Fayetteville: to appoint a treasurer, clerk, and such other officers as they may require, and to transact all the business of the company during the intervals between the general meetings of the stock holders.

If any stock holder shall fail to pay the sum required of him by the president and directors, or a majority of them, within one month after the same shall have been advertised in one of the newspapers published in the city of Raleigh and town of Fayetteville, it shall and may be lawful, for the president and directors, or a majority of them, to sell at public auction, and to convey to the purchaser, the share or shares, of such stock-holder so failing or refusing, giving one months

previous notice, of the time and place of sale in manner aforesaid; and after retaining the sum due, and all charges of the sale out of the proceeds thereof, to pay the surplus over to the former owner, or to his legal representative; and if the said sale shall not produce the sum required to be advanced, with the incidental charges attending the sale, then the president and directors may recover the balance of the original proprietor or his assignee, or the executor or administrator of either of them, by suit in any court of record having jurisdiction thereof, or by warrant before a justice of the county of which he is a resident: and any purchaser of the stock of the company, under the sale by the president and directors, shall be subject to the same rules and regulations as the original proprietors.

II. Be it further enacted, That if the capital stock of the company hereby incorporated, shall be insufficient for the purpose of that act, it shall and may be lawful for the president and directors of the said company, or a majority of them from time to time, to increase the said capital stock, to an amount not exceeding one million of dollars, by the addition of as many shares as they may deem necessary—first giving to the individual stock-holders, for the time being, or their legal representatives, the option of taking such additional shares in proportion to the amount of stock respectively held by them,—and opening books for subscription in the city of Raleigh, and towns of Fayetteville, Wilmington and Hillsborough, as is herein prescribed for the original stock of the company, for any balance of capital stock created, which may not be taken by the stock-holders for the time being, or in their behalf; and the subscribers for such additional shares of the capital stock in the said company, are hereby declared to be thenceforward incorporated into the said company, with all the privileges and advantages, and subject to all the liabilities of the original stock-holders.

III Be it further enacted, That the president and directors, or a majority of them, shall have power to borrow money for the objects of this act; to issue certificates, or other evidence of such loans, and to make the same convertible into stock of the company, at the pleasure of the holder. *provided*, that the capital stock shall not thereby be increased to an amount exceeding one million of dollars; and to pledge the property of the company for the payment of the same and its interest: *Provided*, that no certificate of loan convertible into stock, or creating any lien or mortgage on the property of the company, shall be issued by the president and directors, unless the expediency of making a loan on such terms, and of issuing such certificates, shall have first been determined on at a general meeting of the stock-holders, by two-thirds of the votes which could be legally given in favor of the same.

IV Be it further enacted, That the said president and directors, their officers, agents and servants, shall have full power and authority to enter upon all lands and tenements through which they may desire to conduct their rail road, and to lay out the same according to their pleasure, so that the dwelling house of no person be invaded without his consent; and that they shall have power to enter in and lay out such contiguous land as they may desire to occupy as sites for depots, toll-houses, ware-houses, engine sheds, work-shops, water stations, and other buildings, for the accommodation of their offices, agents and servants, their horses, mules, and other cattle, and for the protection of property entrusted to their care: *Provided*, that the land so laid out, on the line of their rail road, shall not exceed (except at deep cuts and fillings) eighty feet in width—and that the adjoining land for the sites of buildings (unless the president and directors can agree with the owner or owners for the purchase of the same,) shall not exceed one and a half acre, in any one parcel. If the president and directors cannot agree with the owner or owners of the lands so entered on and laid out by them, as to the terms of purchase, it shall be lawful for them to apply to the Court

of Pleas and Quarter Sessions of the county in which such land, or the greater part thereof may lie; and upon such application, the court shall appoint five disinterested and impartial freeholders to assess the damages to the owner from the condemnation of the land, for the purpose aforesaid. No such appointment, however, shall be made, unless ten days previous notice of the application shall have been given to the owner of the land, or to the guardian, if the owner be an infant, or to the committee, the owner being *non compos mentis*, if such owner, guardian or committee, can be found within the county—or if he cannot be so found, then such appointment shall not be made, unless notice of the application shall have been published at least one month next preceding, in some newspaper printed as convenient as may be to the court house of the county, and shall have been posted at the door of the court house on the first day at least of the next preceding term of the said court. A day for the meeting of said freeholders to perform the duty assigned them, shall be designated in the order appointing them; and any one or more of them attending on that day, may adjourn from time to time until their business shall be finished. Of the five freeholders so appointed, any three or more of them may act, after having been duly sworn or solemnly affirmed, before some justice of the peace, that they will impartially and justly, to the best of their ability, ascertain the damages which will be sustained by the proprietor of the land, from the consideration thereof, for the use of the company, and that they will truly certify their proceedings thereupon, to the court of the said county.

13. It shall be the duty of the said freeholders, in pursuance of the order appointing them, to assemble on the land proposed to be condemned, and after viewing the same, and hearing such proper evidence as either party may offer, they shall ascertain according to their best judgment, the damages which the proprietor of the land will sustain by the condemnation thereof, for the use of the Company. In performing this duty, they shall consider the proprietor of the land as being the owner of the whole fee simple interest therein. They shall take into consideration the quality and quantity of the land to be condemned; the additional fencing that will be required thereby; and all other inconveniences which will result to the proprietor from the consideration thereof.

14. When the said freeholders shall have agreed upon the amount of damages, they shall forthwith make a written report of their proceedings, under their hands and seals, in substance as follows: We, freeholders, appointed by an order of the Court of Pleas and Quarter Sessions, for the purpose of ascertaining the damages that will be sustained by the proprietor of certain lands in the said county, which the president and directors of the Raleigh and Fayetteville Rail Road Company propose to condemn, for their use, do hereby certify that we met together, on the land aforesaid, on the day of , the day appointed therefor by the said order, (or the day to which we were regularly adjourned from the day appointed for our meeting, by the said order) and that having been first duly sworn, and having visited the premises, we proceeded to estimate the quantity and quality of the land aforesaid, the quantity of additional fencing which would probably be occasioned by its condemnation, and all other inconveniences which seemed to us likely to result therefrom, to the proprietor of said land. That under the influence of these considerations, we have estimated, and do hereby assess the damages aforesaid, at the sum of . Given under our hands and seals this day of . At the foot of the report so made, the magistrate before whom the said freeholders were sworn shall make a certificate in substance as follows:—" county, set: I, , a justice of the peace of said county, do hereby certify that the above named freeholders, before they executed their duties as above certified, were solemnly sworn (or affirmed) before me, that they would impartially and justly, to the best of their ability, ascertain the damages which would be sustained by the above named by the condemnation of the above mentioned land, for the

use of the Raleigh and Fayetteville Rail Road Company, and that they would certify truly, their proceedings thereupon, to the court of said county. Given under my hand this day of

The report of the freeholders so made, together with the certificate of the justices of the peace as aforesaid, shall be forthwith returned by the said freeholders to the court of the county; and unless good cause be shown against the report, it shall be confirmed by the court and entered on record: But, if the said report should be disaffirmed, or if the said freeholders, being unable to agree, should report their disagreement; or if from any other cause, they should fail to make a report within a reasonable time after their appointment, the court may, in its discretion, as often as may be necessary, supersede them, or any of them, appoint others in their stead, and direct another view and report to be made in the manner above prescribed.

On the confirmation of any such report, and on the payment, or tender, to the proprietor of the land, of the damages so assessed, or the payment of said damages into court, when for good cause shown, the court shall so have ordered it, the land reviewed and assessed as aforesaid, shall be vested in the Raleigh and Fayetteville Rail Road Company, and they shall be adjudged to hold the same in fee simple, in the same manner as if the proprietor had sold and conveyed it to them.

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

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

If the president and directors shall take possession of any land before the same shall have been purchased by them, or condemned and paid for according to the provisions of this act; and shall fail for forty days to institute proceedings for its condemnation as aforesaid; or shall not prosecute, with due diligence, the proceedings commenced for that purpose, it shall be lawful for the proprietor of the land, upon giving to the said president and directors, or any one of them, ten days previous notice, to apply to the court of the county in which the land, or the greater part thereof, shall lie; and upon such application, the court shall appoint five disinterested and impartial freeholders, to assess the damages to the owner from the condemnation of his land for the use of the company, shall appoint a day for their meeting, to report the duties assigned them; and shall dismiss, at the cost of the company, any proceeding then depending on their behalf, for the condemnation of the same land. The freeholders so appointed, any three of whom may act, shall proceed in the performance of their duties, in all respects, in the same manner as if they had been appointed, on the application of the president and di-

rectors of the company. And the court shall, in like manner, confirm or disaffirm their report; supersede them or any of them, and appoint others in their stead; or direct another view and report to be made, as often as may be necessary. And when any such report, ascertaining the damages, shall be confirmed, the court shall render judgment in favor of the proprietor, for the damages so assessed, and double cost; and shall thereupon, either compel the company to pay into court the damages and costs so adjudged, or award process of execution therefor, as to them shall seem right.

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

The said president and directors, for the purpose of constructing their rail road aforesaid, and the works necessarily connected therewith; or of reparing the same after they shall have been made; or of enlarging or otherwise altering the same, shall be at liberty, by themselves, their officers, agents or servants, at any time to enter upon any adjacent lands, and to cut, quarry, dig, take, and carry away therefrom, any wood, stone, gravel, or earth, which they may deem necessary. *Provided, however*, that they shall not, with the consent of the owner, cut down any fruit-tree, or any tree preserved in any lot or field for shade or for ornament; nor take any timber, gravel, stone or earth, constituting any part of any fence or building. For all wood, stone, gravel, or earth taken under authority of this act; and for all incidental injuries done to the inclosure's crops, woods or grounds, in taking or carrying the same away, the said president and directors shall make to the owner, a fair and reasonable compensation; to be ascertained, if the parties cannot agree by any three impartial and disinterested freeholders, who, being appointed for that purpose by any justice of the peace thereto required by the owner, shall be sworn by him; and shall then ascertain the compensation upon their own view, of the wood, stone, gravel or earth taken, and of the injury done as aforesaid in taking them. *Provided, however*, that it shall be the duty of the owner or owners, to show to the justices of the peace, to whom the application is made, that ten days previous notice of the time of making the same, has been given to the president, or one of the principal agents of the said rail road company; and no award, which may be given under any appointment without such notice, shall be obligatory or binding on said company. *Provided, however*, that either party, not satisfied with the award which may be given as above, may appeal to the Court of Pleas and Quarter Sessions, of the county in which the land may be situated, who may, as in case of assessment of land, confirm or disaffirm the report of the freeholders, supersede them or any of them, and appoint others in their stead, or direct another view and report to be made as often as may be necessary.

If the said president and directors, in entering upon the land of any person, under the authority of this act, for the purpose of laying out, or constructing enlarging, altering, or repairing any of their said works, shall, by themselves or their officers, do any wanton or wilful injury to said land or its appurtenances; or to the crops growing or gathered; or to any other property thereon, the Raleigh and Fayetteville rail road company shall pay to the person so injured, double the amount of the damages, which shall be assessed by a jury in any proper action therefor; or if said injury be done by any person or persons, who may have contracted with the company for the construction of any portion of their rail road, or any of the works connected therewith, he or they shall be responsible to the party injured in the like amount.

Whenever in the construction of the said rail road, it shall be necessary to cross or intersect any established road or way, it shall be the duty of the said president and directors, so to construct the said rail road across such established roads or

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

That said president and directors, or a majority of them, shall have power to purchase, with the funds of the company, and place on the rail road, constructed under this act, all machines, wagons, vehicles, carriages and teams of every description whatsoever, which they may deem necessary or proper for the purpose of transportation. Or if they deem it most expedient to do so, they may contract with any other rail road company or companies, or with any individual or individuals, or effecting the transportation on the same.

All machines, wagons, vehicles and carriages purchased as aforesaid, with the funds of the company, or engaged in the business of transportation on said rail road, and all the said works of the said company constructed, or property acquired under the authority of this act; and all profits which shall accrue from the same, shall be vested in the respective stock-holders of the company forever, in proportion to their respective shares; and the same shall be deemed personal estate, and shall be exempt from any public charge or tax whatsoever.

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

They shall give no undue preference in transportion, to the property of one person over that of another; but as far as practicable, shall carry each in the order of time in which it shall be delivered or offered for transportation, with the tolls paid or tendered. If the company, or any of its officers or agents, shall fail to receive, transport, or deliver in due time, any property so offered or delivered to them for transportation; or fail to take up or set down, any passenger or passengers, at such convenient point as he or they may desire, upon the payment or tender of the passage money hereby allowed, they shall forfeit and pay to the party so injured, double the amount of the lawful toll paid or tendered; and shall, moreover, be liable to an action on the case, to which full damages and double costs shall be awarded.

So soon as any portion of the rail road hereby authorized, may be in readiness for transportation, it shall be lawful for the said president and directors, to transport by their officers or agents, or by contractors under them, persons and property on the same; and they shall have power to charge for transportation of persons, goods, produce, merchandize, and other articles; and for the transpor-

tion of the Mail, any sum not exceeding the following rates, viz: On persons, not exceeding eight cents per mile for each person, unless the distance which any person be transported, be less than ten miles,- in which case, the president and directors may be entitled to make an extra charge of fifty cents, for taking up and putting down each person so transported;—for the transportation of goods, produce, merchandise, and other articles, not exceeding an average of ten cents per ton per mile, and for the transportation of the Mail, such sums as they may agree for; and the president and directors shall be furthermore entitled to demand and receive for the weighing, storage, and delivering of produce and other commodities at their depots and ware-houses, rates not exceeding the ordinary ware-house rates, and charged for such services.

V. *Be it further enacted*, That if the said president and directors, shall deem it advisable to construct the bridges which may be necessary on the line of their rail road, of sufficient width to admit of the passage of common roads as well as of their rail road over the same, they may be entitled to demand and receive from all persons, and for wagons, carriages, and all four and two wheeled vehicles, and for all beasts of burden sheep and hogs, passing the same, the following rates of toll, viz: For four wheel carriages fifty cents; for two wheel carriages twenty five cents; for passengers on horseback ten cents; for foot passengers five cents; for horses and cattle three cents per head; for hogs and sheep two cents per head.

As soon as ten miles of the rail road hereby authorised, shall be completed, the president and directors shall annually and semi-annually declare and make such dividend as they may deem proper, of the nett profits arising from the resources of the said company, after deducting the necessary current and probable contingent expenses of the said company; and shall divide the same among the proprietors of the stock of the said company in proper proportion to their respective shares

An annual meeting of the subscribers to the stock of the said company, shall be held at such time and place in each year as the stockholders at their first general or at any subsequent meeting may appoint: to constitute which, or any general meeting called by the president and directors, according to the provisions of this act, the presence of proprietors entitled to a majority of all the votes, which could be given by all the stockholders, shall be necessary, either in person or by proxy duly properly authorized. And if a sufficient number do not attend on that day, or any day appointed for a general meeting, called by the directors as aforesaid, the proprietors who do attend may adjourn from time to time until a general meeting shall be had.

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

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

The works hereby required of the Raleigh and Fayetteville rail road company shall be executed with diligence, and if they be not commenced within four years after the passage of this act, and finished within ten years after the first general meeting of the stockholders, then this charter shall be forfeited,

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

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

If any person or persons shall wilfully, by any means whatever, injure, impair, or destroy any part of the Rail Road constructed under this act, or any of the necessary works, machines, wagons, vehicles, carriages, or other property belonging to the said company, or shall place any obstruction upon said road, such person or persons shall be deemed guilty of a misdemeanor, and on conviction thereof, in the court of Pleas and Quarter Sessions or superior court of law of the county where the offence may be committed, shall be fined and imprisoned at the discretion of the court.

VI. Be it further enacted, That if at any time hereafter, the above rates for toll and transportation shall enable the said president and directors, after the payment of all necessary expenses, and after setting apart a fair and reasonable sum for the renewal and repairs of the said Road, ware-houses, and depots, and other constructions, and of the machines, cars and other vehicles for transportation, to divide more than fifteen per cent. on their capital stock invested, that the said rates of toll and transportation shall be so reduced by the said president and directors as to enable them to divide fifteen per cent and no more.

VII. Be it further enacted, That no person shall be eligible as president or director of said company unless he be a resident citizen of this State.

VIII. Be it further enacted, That it shall be the duty of the President of said company, on the first week in December, in each and every year, to transmit to the General Assembly a correct statement of all the receipts and expenditures of said company during the year preceding.

IX. Be it further enacted, That when the General Assembly may be of opinion and the charter hereby granted shall have been violated, it may be lawful by joint resolution of the two Houses, to direct the Attorney General, with such assistant counsel as the Governor or Legislature may think proper to engage, to issue a writ of scire facias, returnable before the Judges of the Supreme Court, calling upon said corporation to show cause why their charter shall not be forfeited, subject to the same proceedings as are now prescribed by law, in case of other corporations.

X. *Be it further enacted*, That nothing herein shall be so construed as to prevent any rail road company now incorporated, or that may be hereafter incorporated by the Legislature of this State, from crossing said road upon a level with or otherwise as they may think proper; and said Raleigh and Fayetteville rail road company shall in due time, erect a depot at said intersection for the safe keeping of produce or merchandize under the same regulations as at their other depots, upon failure to do which, the road crossing or intersecting, shall do the same under said regulations: *Provided*, The free passage of said road is not thereby obstructed, by being crossed or instersected as aforesaid.

CHAPTER XXVIII.

AN ACT to incorporate the Milton and Salisbury Rail Road Company.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That it shall be lawful to open books in the town of Milton, under the direction of John T. Garland, John Wilson, Stephen Dodson, Samuel Watkins and James Houlder, or any three of

them; in Wentworth, in Rockingham county, under the direction of Robert Martin, Josiah Roberts, Anderson B. Holderly, James Wright and Ezra Willis, or any three of them; in Leaksville, under the direction of George W. Jones, William Barnet, James Dillard, Tillman Coleman and John Lawson, or any three of them; in Madison, under the direction of Randall D. Scales, Pleasant Black, William Porter, William M. Wall and William Ferrel, or any three of them; in Salem under the direction of Charles F. Bagge, Isaac Boner, Emanuel Shober, John C. Blum and John H. Sansmon, or any three of them; in Greensboro', under the direction of John A. Gilmer, Ralph Gorrell, John M. Logan, Peter Adams and William H. Cumming, or any three of them; in Lexington, under the direction of William R. Holt, Samuel Hargrave, Andrew Hunt, Charles L. Payne and John A. Hogan, or any three of them; in Salisbury, under the direction of Isaac Burns, William McCoy, Thomas G. Polk, Samuel Lemley and Thomas L. Cowan, or any three of them; in Charlotte, under the direction of William J. Alexander, Samuel McCombs, Washington Morrison, Green W. Colwell and James M. Hutchinson, or any three of them; and at such other places, and under the direction of such other persons, as any three of the commissioners herein before named to superintend the receiving of subscriptions at Milton shall direct, for the purpose of receiving subscriptions to the amount of five hundred thousand dollars, in shares of one hundred dollars each, for the purpose of effecting a communication by rail road, from some point in or near Milton, to some point in or near the town of Salisbury, and for providing every thing necessary and convenient for the transportation on the same.

The times and places for receiving subscriptions, shall be advertised in one or more newspapers published in the towns of Milton and Salisbury; and the books for receiving the same, shall be kept open not less than sixty days; and if it shall appear that more than five thousand shares of the capital stock aforesaid, shall have been subscribed for, within the said sixty days, it shall be the duty of the said commissioners at Milton, or any three of them, to reduce the number of shares subscribed for, among the subscribers, in fair and equal proportions to the amount of stock subscribed for respectively by each, until the whole amount of shares shall be reduced to five thousand; but if the whole amount shall not be subscribed for within sixty days, from the time the books shall be opened to receive subscriptions, then the books may be closed or continued open, or closed and re-opened, without further notice, as a majority of the above named commissioners at Milton may judge to be most expedient, until the whole number of shares shall be subscribed for.

When three thousand shares shall be subscribed in manner aforesaid, the subscribers, their executors, administrators or assigns, shall be, and they are hereby declared to be incorporated into a company by the name and style of the "Milton and Salisbury Rail Road Company;" and by that name, shall be capable in law of purchasing, holding, selling, leasing and conveying, estates real, personal and mixed, so far as shall be necessary for the purposes hereinafter mentioned, and no farther; and shall have perpetual succession, and by said corporate name, may sue and be sued, and may have and use a common seal which they shall have power to alter or renew at their pleasure, and shall have and enjoy, and may exercise all the powers, rights and privileges, which other corporate bodies may lawfully do, for the purposes mentioned in this act; and may make all such by-laws, rules and regulations, not inconsistent with the laws of this State, or of the United States, as shall be necessary for well-ordering and conducting the affairs of the company.

Upon any subscription of stock as aforesaid, there shall be paid at the time of subscribing, to the said commissioners or their agents appointed to receive such

subscriptions, the sum of two dollars on every share subscribed, and the residue thereof shall be paid in such instalments, and at such times, as may be required by the president and directors of said company.

The said commissioners or their agents shall forthwith, after the first election of president and directors of the company, pay over to the said president and directors, all monies received by them, and in failure thereof, the said president and directors may recover the amount due from them, or from any one or more of them, by motion on ten days previous notice in the Court of Pleas and Quarter Sessions, or the Superior Court of Law, of any county where such commissioner or commissioners, their executors or administrators, may reside, or by warrant before a justice of said county.

When two thousand shares or more of the stock shall have been subscribed, public notice of that event shall be given by any three or more of the said commissioners at Milton, who shall have power at the same time to call a general meeting of the subscribers, at such convenient place and time as they shall name in said notice.

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

The president and directors of the said company shall be, and they are hereby invested with all the rights and powers necessary for the construction, repair, and maintaining of a rail road to be located as aforesaid, with as many sets of tracts, as they or a majority of them may deem necessary, and may cause to be made, and also to make and construct all works whatsoever, which may be necessary and expedient in order to the proper completion of the said rail road.

The said president and directors shall have power to make contracts with any person or persons, on behalf of the company, for making the rail road, and performing all other works respecting the same, which they shall judge necessary and proper, and to require from the subscribers, from time to time, such advances of money on their respective shares, as the wants of the company may demand, until the whole of their subscriptions shall be advanced; to call on any emergency, a general meeting of the subscribers, giving one months notice thereof in one of the newspapers printed in the town of Milton; to appoint a treasurer, clerk, and such other officers as they may require, and to transact all the business of the company during the intervals between the general meetings of the stockholders.

If any stockholder shall fail to pay the sum required of him by the president and directors, or a majority of them, within one month after the same shall have been advertised in one of the newspapers published in the town of Salisbury, it shall and may be lawful for the president and directors, or a majority of them, to sell at public auction, and to convey to the purchaser, the share or shares of such stock-holder so failing or refusing, giving one months previous notice, of the time and place of sale in manner aforesaid; and after retaining the sum due, and all charges of the sale out of the proceeds thereof, to pay the surplus over to the former owner, or to his legal representative; and if the

said sale shall not produce the sum required to be advanced, with the incidental charges attending the sale, then the president and directors may recover the balance of the original proprietor or his assignee, or the executor or administrator of either of them, by suit in any court of record having jurisdiction thereof, or by warrant before a justice of the county of which he is a resident: and any purchaser of the stock of the company, under the sale by the president and directors, shall be subject to the same rules and regulations as the original proprietors.

2 Be it further enacted, That the president and directors, their officers, servants, agents and conductors shall have power and authority to enter upon all lands and tenements through which they may judge necessary to make the said rail road, and to lay out the same according to their pleasure, so that neither the yard or garden of any person be invaded without his or her consent. If the president and directors cannot agree with the owner of the lands, on the terms upon which the said rail road shall be opened through it, it shall be lawful for them to apply to the court of the county in which the land lies, and upon such application, it shall be the duty of the court to appoint five discreet, intelligent, disinterested and impartial freeholders, to assess the damages to such land which will result from opening the rail road through it No such appointment, however, shall be made, unless ten days previous notice in writing of the application shall have been given to the owner of the land, or to the guardian, if the owner be an infant or non compos mentis if such owner, or guardian, can be found in the county—or if he cannot be found, then such appointment shall not be made unless notice of the application shall have been published at least one month, in some public newspaper printed at Milton. A day for the meeting of the freeholders to perform the duties assigned them, shall be designated in the order appointing them; and any one or more of them attending on that day, may adjourn from time to time, until the business shall be finished. Of the five freeholders so appointed, any three or more of them may act,—after having been duly sworn or solemnly affirmed, before some justice of the peace, that they will impartially and justly, to the best of their ability, ascertain the damages which will be sustained by the proprietor of the land, from opening the said rail road through the same, and that they will certify their proceedings thereupon, to the court of the said county. Be it further enacted, That it shall be the duty of the said freeholders, in pursuance appointing them, to assemble on the land through which the said rail road is to be opened, and after viewing the same, and hearing such proper evidence as either party may offer, to ascertain, according to their best judgment, the damages which the owner of the land will sustain by opening the rail road through the same. In performing this duty, they shall consider the proprietor of the land as being the owner of the whole fee simple interest. They shall take into consideration the quantity and quality of the land which the said rail road will occupy, the additional fencing or gates that will be required thereby; and all other inconveniences which will result to said land from the opening of the said rail road, and shall combine therewith a just regard to the advantages, which the owner of the land will derive from the opening the rail road through the same

3. Be it further enacted, That when the said freeholders shall have agreed upon the amount of damages, they shall forthwith make a written report of their proceedings, under their hands and seals, in substance as followeth: We freeholders appointed by order of the court, for the purpose of ascertaining the damages which would be sustained by the proprietor of certain lands in said county through which the Milton and Salisbury rail road company proposes to open a rail road, do hereby certify that we met together for that purpose, the day of , the day appointed by the said order, (or the day to which we were regularly adjourned from the day appointed for our meeting, by the said order, as the case may be) and that first having been

duly sworn, or affirmed, and having viewed the premises, we proceeded to estimate the quantity and quality of the land aforesaid, which would be occupied by the said rail road, the quantity of additional fencing or gates which would be required, and all other inconveniences which seem to us likely to result therefrom, to the said land That we combined with these considerations, as far as we could a just regard to the advantages which would be derived by the proprietor of said land, from the opening of the said rail road through the same; that under the influence of these considerations, we have estimated and do hereby assess the damages aforesaid at the sum of dollars Given under our hands and seals this day of At the foot of the report so made, the magistrate before whom the said freeholders were sworn, or affirmed, shall make a certificate in substance as followeth. county, set: I - , a justice of the peace for said county, do hereby certify, that the above named freeholders, before they executed their duties as above certified, were solemnly sworn, (or affirmed) before me, that they would impartially and justly, to the best of their ability, ascertain the damages which would be sustained by the above named from the opening of the above mentioned rail road through his or her land, and that they would certify truly, their proceedings thereupon, to the court of said county. Given under my hand this day of

The report of the freeholders so made together with the certificate of the magistrate, aforesaid shall be forthwith returned by the freeholders to the court of said county; and unless good cause be shown against the report, it shall be confirmed by the court and entered of record; But, if the said report should be disaffirmed, or the said freeholders be unable to agree, should report their disagreement, the court may at its own discretion, as often as it may be necessary, supersede them—or any of them,—appoint others in their place, and direct another view and report to be made in manner above prescribed.

On the confirmation of any such report, and on the payment, or tender of payment of said damages into court, when for good cause shown, the court shall so have ordered it, the president and directors shall be at liberty to open the said rail road, upon the ground received and assessed by the freeholders aforesaid, the width of land thus to be condemned shall be one hundred feet

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

5. Be it further enacted, That if the said president and directors shall not obtain the consent of the proprietor or proprietors of any land, through which they may propose to open and construct the said rail road, and shall not apply to the said county court and procure assessors or valuers, to be appointed as before directed, within forty days from the time the said president and directors, their superintendants, agents, contractors, labourers and servants, shall commence opening and constructing the said rail road through such land, then it shall be lawful for the proprietor or proprietors of said land, at any time previous to the appointment of valuers by the said president and directors, giving the said president and directors ten days previous notice, by serving the same on the president or any one or more of the directors, to apply to the said county court; and upon such application, it shall be the duty of said court, to make the appointment of assessors or valuers as before directed, who shall be qualified in the same manner; and shall, upon the principles and in the same manner, in all respects, proceed to assess and report to the court, the damages that will result to the proprietor or proprietors of such lands, as if they had been appointed on the motion of the said president and directors; and the said court shall proceed upon the said report, and confirm or set aside the same, and appoint other assessors or valuers, in all respects, as if the same had been made by assessors or valuers appointed on the motion of the said president and directors; and if the said president and directors shall not pay to the proprietor or proprietors of such lands, or into court, the damages assessed during the term of said court, at which the report thereof shall be confirmed, at any time after the adjournment of the court, on the like application, the clerk shall issue the like execution for the amount of damages against said company.

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

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

8. *Be it further enacted*, That said president and directors, shall have power to purchase, with the funds of the said company, and place on the said rail road, all machines, wagons, vehicles, carriages and teams of any description whatever, which they may deem necessary for the purpose of transportation.

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

9. *Be it further enacted*, That as soon as the said rail road, or any part thereof be completed, the president and directors shall be entitled to demand and receive on the same, the following rates of toll, to wit; on all goods, produce, merchandize, or commodity of any description whatsoever, a sum not exceeding twelve cents per ton per mile; for the transportation of passengers, a sum not exceeding six cents a mile for each passenger; and for the transportation of the mail, such a sum as they may agree for with the agents of the government, that they shall be furthermore entitled and receive, for the weighing, storage and delivery of produce, and other commodities, rates, not exceeding the ordinary ware-house rates, charged in the sea port, towns in this State, until the nett profits received, shall amount to a sum equal to the capital stock expended, with six per cent per annum interest thereon from the time the money was advanced by the stockholders, until received back in nett profits, but when the nett profits received as aforesaid by the tolls aforesaid, shall amount to a sum equal to the capital stock, expended with six per cent interest thereon, then the toll which the said president and directors, shall be entitled to demand and receive as aforesaid, shall be fixed and regulated from time to time by the president and directors, so as to make them sufficient in their estimation, to yield a nett profit of twenty per cent per annum on the capital stock invested in said road, and the constructions connected with it, and the costs of the locomotive engines, cars, carriages, and other vehicles, and the removal and the repairs of the same, the company, however, will not be bound to transport any produce, or other commodities, unless the owner thereof, shall pay or tender to the said company at their toll-gate or gates, the toll due upon such commodities under this act.

10. Be it be further enacted, That it shall be lawful for the said president and directors, and they are hereby authorized to erect toll-gates at any point or points on the line of their rail-road.

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

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

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

14. Be it further enacted, That if any toll-gatherer at any toll-gate, to be erected under the authority of this act, shall ask, demand and receive any other, or great-

or toll than herein allowed, he shall forfeit and pay the party aggrieved thereby ten dollars for every such offence, recoverable with costs, by warrant before any justice of the peace; and if such toll-gatherer being at the time of incurring such penalty in the service of the company, shall be unable to pay the judgment awarded against him, the said company shall be liable to pay the same.

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

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

17. Be it further enacted, That it shall be lawful for the said company to purchase lands, tenements, and hereditaments, from the proprietors or from the corporation of any town within or through which the said road may pass, at each point of termination, or at any intermediate point of said road in the vicinity thereof, not exceeding twenty-five acres, to be used by them for all necessary purposes of said rail road—or to be disposed of by them when they shall deem it proper.

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

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

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

21. Be it further enacted, That it shall not be lawful for any other company or person or persons whatever, to travel upon or use the road of said company, or to transport persons or property of any description, along the said rail road;

without the license or permission of the President and directors of said company.

22. Be it further enacted, That in order to prevent the frequent crossing of established roads or ways, or in cases in which it may be necessary to occupy the same, it may be lawful for the said president and directors, to change the said roads to points where they may deem it expedient to do so. And that for entering upon, or taking any land which may be necessary therefor, they shall be, and are hereby authorised, to proceed under the provisions of this act, as in the case of land necessary for their rail road: *Provided*, that previous to the making of any such change, the said company shall make and prepare a road equally good with the portion of the road proposed to be substituted; but nothing herein contained shall be so construed as to make it incumbent on the company to keep in repair the portion of any road which they may have changed as aforesaid.

23. Be it further enacted, That if the said president and directors shall deem it advisable to construct the bridge which may be necessary on their line, of their rail road, of sufficient width to admit of the passage of common roads as well as of their rail road over the same, they may be entitled to demand and receive from all persons, and for wagons, carriages, and all four, and two wheel vehicles, and for all beasts of burthen, sheep, and hogs, passing the same, the following rates of toll, to wit: For all road wagons, fifty cents; two horse wagons, gons, twenty-five cents; pleasure carriages, seventy-five cents; gigs, and sulkies, twenty-five cents; three cents per head for all cattle, hogs, or sheep; which price shall be regulated hereafter.

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

CHAPTER XXIX.

AN ACT to incorporate the Roanoke, Danville and Junction Rail Road Company.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That it shall and may be lawful to open books in the town of Warrenton, under the direction of Peter R. Davis, James Summerville, Robert Stamper, Daniel Turner, Dr. Joseph W. Hawkins, and Henry Fitz. At Oxford, under the direction of Rhodes N. Herndon, Joseph H. Bryan, William M Sneed, James Cooper, and Thomas J. Hunt. At Hillsborough, under the direction of William Cain Jr. James S. Smith, Harrison Parker, Gabriel B Lea, Michael Holt, and John Caruthers. At Yanceyville, under the direction of William A. Lea, George Williamson, James Kerr, Paul Harralson, Stephen Dodson, and Quinton Anderson. At Greensborough, under the direction of Judithan Harper Lindsay, Daniel Clapp, Moses H. Mendenhall, Eli Smith, Abraham Jeron, and Henry Humphreys. At Roxborough, under the direction of Stephen M Dickerson, John Barnett, William L. Allen, Portius Moore, Alexander Cunningham, James L. Webb, John W. Williams, and Alexander Gordan. At Salem, under the direction of Emanuel Shober, John C. Blum, Charles F. Bagge, Frederick H. Shuman. At Rockford, under the direction of Peter Clingman, Meshack Franklin, Matthew W. Hughes, John Wright, and Daniel W. Courts. At Lexington, under the direction of John A. Hogan, James Wiseman, William R. Holt, Absalom Williams, John Smith, Evander McIver, and John Lee. At Salisbury, under the direction of Thomas J. Cowan, Maxwell Chambers, John Murphey, William F. Kelley, Robert McNamara, William Chambers, and James Martin, Jr. At Wentworth, under the direction of Thomas Settle, Robert Martin, William A. Carrigan, John Lawson, and William Barnett. At Statesville, under the direction of Theophilus Falls, William F. Cowan, James Campbell, Joseph Chambers, Thomas M. Young. At Ashborough, under the direction of Benjamin Elliott, Jonathan Worth, Hugh McCain, George Hoover, and Elisha Coffin; and at Danville, under the direction of George Towns, B. W. S. Cabell, William Linn, Thomas Rawlins, John Ross, Robert Williams,

Thomas Hoge, James L. Denney, George Braghead, Thompson Coleman, Robert Ross, William P. Jones, James M. Williams, John C. Cabniss, John Price, and John Dickerson; and at such other places, and under the direction of such other persons, as any three of the last named commissioners, or a majority of them, may order, appoint and direct, for the purpose of receiving subscriptions to the amount of two millions of dollars, in shares of one hundred dollars each, to constitute a joint capital stock, for the purpose of making a Rail Road, from a point intersecting the Petersburg and Roanoke, the Portsmouth and Roanoke, and the Greensville and Roanoke Rail Roads; or to such other points, on either side of the Roanoke river, as may best secure to the proposed route, all the advantages of said roads through Danville, to some point within or near the town of Evansham, in the county of Wythe, and State of Virginia; and for the purpose of extending the same, should the company hereby incorporated, at the commencement of the work, or at any time afterwards, deem it advisable to do so, from its point of termination, within or near Evansham, to the Tennessee line. The times and places for receiving subscriptions above, shall be advertised in the manner deemed most proper by the commissioners; and the books for receiving the same, shall be kept open for twenty days; and should it, at the expiration of twenty days, appear that more than two millions of stock shall have been subscribed for, upon the books, it shall be the duty of the said commissioners, or any five of them named for the town of Danville, to reduce the number of shares subscribed for by each individual, in fair and equal proportions, until the whole number of shares shall be reduced to twenty thousand. *Provided*, That no reduction shall be made upon subscriptions not exceeding two shares; but should the whole amount of twenty thousand shares not be subscribed for, at the end of twenty days, then the books shall be kept open until the whole amount of twenty thousand shares shall have been subscribed for. Provided, however, that as soon as three thousand shares shall have been subscribed, and the company incorporated, the books shall thereafter be opened, under the direction of the president and directors.

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

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

IV. Be it further enacted, That when three thousand shares or more of the stock shall be subscribed, public notice may be given by any three or more of the commissioners named for the town of Danville, who shall call a general meeting of the subscribers at the town of Danville, giving thirty days notice in some one or more of the newspapers, having, in their opinion, the greatest circulation in the section where the subscribers live, at such time as they may name in such notice To constitute any such meeting, a number of persons, representing a majority of all the votes that can be given upon all the shares subscribed for, shall be present, or represented by proxy; and should a sufficient number not attend, those present shall have power to adjourn from time to time, until a majority of the shares subscribed shall be represented; those meeting shall then proceed, a majority of the stock being represented, to elect a president and five directors, who shall hold their office until the next annual meeting of the stockholders; and until their successors in office shall be appointed, subject, nevertheless, to the provisions hereinafter mentioned Annually, a general meeting of the stockholders shall be called at such place as a majority of the stockholders, in general meeting, shall prescribe; at which, the election of president and directors shall take place; and where a vacancy shall occur by death, resignation, or otherwise, the vacancy may be filled for the time being, by the remaining president and directors; or if the presidency be vacant, the directors may fill as above. Any three or more of the directors may have power, in the absence of the president, to appoint one of their own body president *pro tempore*, and transact business: provided, always, that the proprietors of one fourth part of the stock of said company may, at time, call a general meeting of the stockholders; and such meeting, so called, shall have power to remove any president or director, and to fill any vacancy occasioned by such removal; but no president or director shall be removed, unless a number of votes, representing a majority of shares of stock in said company, shall be given against him.

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

If any stockholder shall fail to pay the sum required of him by the president and directors, or a majority of them, within one month after the same shall have been advertised in one of the newspapers published as aforesaid, it shall and may be lawful for the president and directors, to sell at public

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

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

VII. When the said freeholders shall have agreed upon the amount of damages and costs, they shall forthwith make a written report of their proceedings, under their hands and seals, in substance as followeth: We freeholders appointed by order of the court, of for the purpose of ascertaining the damages which would be sustained by the proprietor of certain lands in said county through which the Roanoke Danville and Junction rail road company propose to open a rail road, do hereby certify that we met together on

the land aforesaid, on the day of , the day appointed for that purpose, by the said order, (or the day to which we were regularly adjourned from the day appointed for our meeting, by the said order, as the case may be) and that having been first duly sworn, or affirmed, and having viewed the premises, we proceeded to estimate the quantity and quality of the land aforesaid, which would be occupied by said rail road, the quantity of additional fencing or gates which would probably be occasioned thereby, and all other inconveniences which seemed to us likely to result therefrom, to the said land That we combined with these considerations, as far as we could a just regard to the advantages which would be derived by the proprietor of the said land, from opening of the aforesaid rail road through the same; that under the influence of these considerations, we have estimated and do hereby assess the damages aforesaid at the sum of dollars Given under our hands and seals this day of At the foot of the report so made, the magistrate before whom the said freeholders were sworn, or affirmed, shall make a certificate in substance as followeth.

county. to wit: I , a justice of the peace for said county, do hereby certify, that the above named freeholders, before they executed their duties as above certified, were solemnly sworn, (or affirmed) before me, that they would impartially and justly, to the best of their ability, ascertain the damages which would be sustained by the above named from the opening of the above named rail road through his land, and that they would certify truly, their proceedings thereupon, to the court of said county. Given under my hand this day of

The report of the freeholders so made together with the certificate of the magistrate aforesaid, shall be forthwith returned by the freeholders to the court of said county; and unless good cause be shown against the report, it shall be affirmed by the court and entered on record; But, if the said report should be disaffirmed, or the said freeholders being unable to agree, should report their disagreement, or if from any other cause they should fail to make a report within a reasonable time after their appointment, the court may at its own discretion, as often as may be necessary, supersede them—or any of them,—appoint others in their stead, and direct another view and report to be made in the manner above prescribed. On the affirmance of any such report, and on payment, or tender of payment of said damages into court, when for good causes shown, the court shall have so ordered it, the president and directors shall be at liberty to open the said rail road, upon the ground viewed and assessed by the freeholders aforesaid.

VIII. Whenever it shall become necessary to subject the lands of individuals to the use of the said company, in opening and constructing the said rail road through the same, and the consent of the proprietor or proprietors cannot be obtained, it shall be lawful for the president and directors of the said company, and for their superintendants and agents, contractors, laborers and servants, by order of said company, to enter upon such lands and proceed in opening and constructing the said rail road through the same. The pendency of any proceedings in court, or before assessors or valuers, to ascertain the damages that will be sustained by the proprietor or proprietors of such land, from opening and constructing the said rail road through the same, shall, in no manner, hinder or delay the progress of said work. The true intent and meaning of this act being, that all injury which may be done to any land, without the consent of the proprietor or proprietors thereof, by opening and constructing the said rail road through the same, over and above the advantages of the said road, to the proprietor or proprietors, of such land shall be fully and completely compensated for in damages when ascertained by a confirmation of the report of the assessors or valuers by the respective county courts, if they be not paid to the party or parties entitled to the same, or into the court by the company, during the term at which the report shall be confirmed, the clerk of the court, shall at any time after the

adjournment of the court, on the application of the parties entitled to the said damages, or his or their attorney, issue execution for the amount of the said damages, against the said company.

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

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

XI. Whenever in the construction of the rail road, it shall be necessary to cross or intersect any established road or way, it shall be the duty of the presi-

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

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

XIII. All machines, wagons vehicles, and carriages purchased as aforesaid, with the funds of the company, and all their works constructed under the authority of this act; and all profits which shall accrue from the same, shall be invested in the respective stockholders of the company forever, in proportion to their respective shares, and the same shall be deemed personal estate, and shall be exempt from any public charge or tax whatsoever.

XIV. So soon as a section of ten miles of the said rail road, shall be completed, and as often thereafter as any other section of like length shall be completed, the said president and directors shall transport all produce or other commodities that shall be deposited convenient to said rail road, and which they shall be required to transport to any point to which the said rail road may have been completed in the order in which the company shall be required to transport the same after it shall have been deposited conveniently to the said rail road so that equal and impartial justice shall be done to all the owners of produce, or other commodities in the transportation thereof by the company: *Provided*, that the owner of the produce or other commodities required to be transported by the said company on the said rail road, shall pay or tender to the said company at their Depot the toll due on such produce or other commodities under this act, and it shall be lawful for the president and directors of the said company and they are hereby authorized to erect on such section or sections, or depot or depots, and they shall be entitled to demand and receive a sum not exceeding twelve and a half cents per ton, or two thousand pounds per mile, for transporting produce or other commodities thereon, and for each passenger a sum not exceeding eight cents per mile, until the nett profits received, shall amount to a sum equal to the capital stock expended, with fifteen per cent per annum, interest thereon from the time the money was advanced by the stockholders, until received back in the nett profits, but when the nett profits received as aforesaid by the tolls aforesaid, shall have amounted to a sum equal to the capital stock, expended as aforesaid, with fifteen per cent. per annum, interest thereon as aforesaid, then the toll which the said president and directors, shall be entitled to demand and receive for the transportation of produce or other commodities on the said rail road shall be fixed and regulated from time to time, by the president and directors of said company, so as to make them sufficient in their estimation, to yield a nett profit equal to fifteen per cent per annum on the capital stock expended in making and completing said rail road, over and above what may be necessary for the repairs and renewal of the same. The president and directors of said company shall at the end of each year, report to the Legislature a statement shewing the whole amount of capital stock expended in this State in the construction of the said rail road, the mount of tolls received each year, the expenses and charges incurred during each year, and the nett annual profits or loss on the capital expended

XV. That each stockholder in the said company, shall be entitled to one vote for each share, not exceeding two shares, one vote for every two shares above two, and not exceeding ten, and one vote for every five shares above ten by him held at the time in the stock of the company; provided however that no stockholder, whether

an individual, body politic or corporate, shall be entitled to more than sixty votes on any amount of the capital stock of the said company, held by him her or them.

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

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

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

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

XX. If the president and directors shall not begin the said work within five years after the passage of this act, or shall not complete the same, or one track within twenty years thereafter, then the interest of the said company in this charter so far as respects the unfinished part of the route shall be forfeited and cease.

XXI. The president and directors shall cause to be written or printed, certificates for the shares of the stock in said company, and shall deliver one such certificate signed by the president, and countersigned by the Treasurer to each person for every share subscribed by him, which certificate shall be transferable by him subject however to all payments due, or to become due thereon, and such assignee having first caused the transfer or assignment to be entered in a book of the company, to be kept for that purpose, shall thenceforth become a member of said company, and shall be liable to pay all sums due upon the stock assigned to him; *provided* however, that such assignment shall in no wise exempt the asignor or his representatives from their liability to the said company for the payment of all such sums as were due at the time of the assignment, if the assignee or his representatives shall be unable or shall fail to pay the same

XXII. If the president and directors or a majority of them cannot agree with the proprietors for the purchase and sale of any such quantity of ground not exceeding ten acres at any one place as may be necessary for the accommodation of a depot or a house to cover any stationary machine, engine, or for cars, stables, warehouses or offices, or any other use which the convenience of the rail road may require, it shall and may be lawful for the said president and directors to enter upon the land under the same restrictions, and on the same conditions as are herein before provided, upon which proceedings the land may be condemned, and upon payment of the value found by the assessors or valuers to the owner or proprietor of the land so condemned and located, or upon payment thereof into court,

when for good cause the court shall have ordered it, the said president and directors and their successors shall be and stand seized of the ground so condemned and located in fee simple.

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

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

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

XXVI Be it further enacted, That the president and directors of said company, at any time when the stockholders, in general meeting, shall or may direct; may, and they are hereby empowered to borrow money for, and on behalf of the company, for the purpose of carrying into effect, the provisions of this charter, to issue certificates or other evidence of such loans, and make the same convertible into stock for the company, at the pleasure of the holder. Provied, That the capital stock shall not thereby be increased to an amount exceeding three millions of dollars; and to pledge the property of the company for the payment of the same, with its interest; or it shall and may be lawful, for the president and directors of said company, or a majority of them, from time to time, to increase the said capital stock, to an amount not exceeding three millions of dollars, by the addition of as many shares as they may deem necessary: first giving to the individual stockholders, for the time being, or their legal representatives, the option of taking such additional shares, in proportion to the amount of stock respectively held by them; and opening books of subscription in the town of Danville, and in such other place or places, as is, or are herein prescribed for the original stock of the company, for any balance of stock created, which may not be taken by the stockholders for the time being, or in their behalf; and the subscribers, for the additional shares of the capital stock in the said company, are hereby declared to be thenceforward incorporated into the said company, with all the privileges and advantages, and subject to all liabilities of the original stockholders.

XXVII Be it further enacted, That the State of North Carolina, by agents acting under its own authority, or by any company heretofore or hereafter incorporated for such purpose, may enter the Roanoke, Danville and Junction Rail Road, at any point whatsoever, with any other rail road from the waters of the Yadkin. Provided, that the said rail road shall not run in the general direction of the rail road hereby incorporated; and all passengers, produce, and commodities, which either company may convey to the point of connection, shall be reciprocally received and transported, at the same rate of tolls charged for commodities, produce, and passengers, conveyed from any other point on said roads

XXVIII Be it further enacted, That if any person or persons, shall wilfully or wantonly remove or disturb any constructions of said rail road, or shall, wilfully or wantonly put or place any obstructions to the vehicles on the constructions of said raid road, as that the regular passage of the vehicles may be interrupted thereby, such person or persons, if on conviction thereof in the superior court of law, in the county where the same may happen, shall be punished with fine and imprisonment, at the discretion of the court; and if slaves, they shall be subject to trial before a magistrate, and punished as in other cases of misdemeanor: provided, nevertheless, that if death shall ensue, from any wilful, wanton and malicious removal or disturbance of the constructions aforesaid, or from any wilful wanton and malicious putting and placing of obstructions on said rail road, each person or persons so offending shall be deemed guilty of murder, and upon conviction thereof shall suffer death without benefit of clergy.

XXIX. *Be it further enacted.* That the written consent of any owner or proprietor of any lands through which the said rail road is to be constructed showing their agreement to the same shall be as valid and effectual to give the same power to and authority over the lands covered by the said rail road, and over all lands which the said company have a right to be possessed of by purchase condemnation or otherwise as if the same had been conveyed by deed of bargain and sale, or condemned by commissioners or valuers appointed under the authority of an act entitled an act to incorporate the Roanoke and Yadkin Rail Road Company as aforesaid, and although the said lands may belong to femes covert, the signing of such assent by her and her husband, shall be as conclusive and as effectual against her as though she had been a feme sole and their assent be binding and conclusive though it be signed and given before the company was formed.

XXX *Be it further enacted,* That nothing contained in the act to which this is an amendment, or this act, shall prevent the president and directors from appointing an agent or agents at any place whatsoever, which to them shall seem proper and necessary for the purpose of tranferring stock, paying dividends, or receiving instalments.

XXXI *Be it further enacted.* That in order to prevent the frequent crossing of established roads or ways, the said president and directors be and they are hereby authorized to change the road at points where they may deem it expedient to do so, and that for entering upon or taking of any lands which may be necessary therefor; they shall be and are hereby authorized to proceed under the provisions of this act, as in the case of the land condemned for the rail road; *provided,* that previous to making any such change, the said company shall make and prepare a road equally good with the part or portion of the road proposed to be substituted; but nothing herein contained shall be so construed as to make it incumbent on the company to keep in repair the part or portion of any road which they may have changed as aforesaid.

XXXII. *Be it further enacted,* That should the said president and directors deem it advisable to construct bridges which may be necessary on the line of their rail road of sufficient width to admit the passage of common roads as well as their rail road over the same, they shall be and are hereby authorized to demand and receive from all and every person, and for every wagon or carriage, and for every four or two wheeled conveyance, and for all beasts of burden, sheep or hogs passing the same, such rates of tolls as may appear to them fair and reasonable, subject to the revision and regulations of the court of the county in which any bridge or bridges may be built.

XXXIII. *Be it further enacted,* That neither the State of North Carolina, nor the State of Virginia, shall within the period of thirty-six years from the first day of January in the year one thousand eight hundred and thirty-six, authorize the construction of any rail road within ten miles of the rail road so to be constructed

by the Roanoke Danville and Junction rail road company, and which shall run in or parallel therewith without the consent of the said company; provided that nothing herein contained shall be so construed as to prevent the construction or intersection with or crossing of the Yadkin rail road, nor shall any thing herein prevent the Milton and Salisbury Rail Road Company, or any other rail road which may be constructed by any company hereafter incorporated from crossing or intersecting the said road on a level or otherwise, provided, that they shall not thereby obstruct the free passage of the Roanoke Danville and Junction Rail Road.

CHAPTER XXX.

AN ACT to amend an act to passed in eighteen hundred and thirty three, entitled an act to incorporate the Wilmington and Raleigh Rail Road Company

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That the capital stock of said company may be increased to any sum, not exceeding one million five hundred thousand dollars, any thing in the before recited act to the contrary notwithstanding. The subscriptions for which shall be made under the same rules and regulations prescribed in the said original act.

II. *Be it further enacted,* That the stockholders of said company shall and may be at liberty, to run the main road from some point within or near the town of Wilmington to some point in the city of Raleigh, or in the immediate neighborhood thereof from Wilmington, or near it as aforesaid to some point at or near the river Roanoke in this State, at the election of said stockholders, with the view of connecting with the Petersburg and Norfolk rail roads—any thing in the said original act to the contrary notwithstanding.

III. *Be it further enacted,* That the said company may be at liberty to lay off, and construct any lateral road, under the rules and regulations, provided in the aforesaid act, before or after they have completed the main rail road aforesaid—any thing in the before recited act to the contrary notwithstanding.

IIII. *Be it further enacted,* That it shall and may be lawful for the said company to purchase, own and possess steam-boats, and other vessels to ply and sail from the port of Wilmington to Charleston, or elsewhere; and to take and receive for the use of said company, over and besides the profits allowed in the said original act, such sums of money, or other property for freight, passengers, or other accommodation on said boats and vessels, as they may be able to make by contracts with their customers, and according to such rates, as they may from time to time establish

V. *Be it further enacted,* That so much of the thirty third section of the said original act, as compels the said company to begin the said road in three years, after the ratification of said act, be, and the same is hereby repealed. And the said company shall begin the said road, or some part thereof, in three years after the first day of January, eighteen hundred and thirty six, under the penalty prescribed in the said thirty third section of the before recited act.

VI. *Be it further enacted,* That it shall not be the duty of the said company to receive produce, goods, wares and merchandize, to be transported on the said road at any other places than their regular depots, which they are required to establish; and it shall be lawful for the said company, to charge fifty cents in addition to the rates, established by the act of eighteen hundred and thirty three to which this is an amendment, for every passenger they may take up at any points on the said road other than their depots as aforesaid.

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

CHAPTER XXXI.

AN ACT to revive and amend an act passed in eighteen hundred and thirty one, entitled an act to incorporate the Tarborough and Hamilton Rail Road Company.

Be it enacted by the General Assembly of the State of North Carolina,

and it is hereby enacted by the authority of the same, That an act passed in eighteen hundred and thirty one, entitled an act to incorporate the Tarborough and Hamilton rail road company, be, and the same is hereby revived, re-enacted and continued in full force and effect, to all intents and purposes, except as is hereinafter provided and amended.

II. *Be it further enacted*, That Francis P. Redmond be substituted as a commissioner to receive subscriptions of stock at Hamilton, in Martin county, in place Exum Lowe deceased, and that Joseph R. Loyd and Louis D. Wilson, be added to the number of commissioners to receive subscriptions of stock in the town of Tarborough, in Edgecombe county.

III. *Be it further enacted*, That so much of the twenty third section of said act, as required the president and directors of said rail road, to begin said rail road within three years, and to complete the same within ten years after the passage of said act be, and the same is hereby repealed.

IV. *Be it further enacted*, That books of subscription for stock under the direction of commissioners named in said act, and as amended by this act, to the amount of one hundred thousand dollars in shares of one hundred dollars each, at the places named in said act, and at such time as the majority of the commissioners at Tarborough, may think proper on giving thirty days, previous notice in some newspaper printed in Tarborough or Raleigh, and shall continue open for such length of time as said majority of commissioners in Tarborough, may think best

V *Be it further enacted*, That if said rail road shall not be begun within three years, and completed within ten years from and after the first day of January, eighteen hundred and thirty six, then all the rights, privileges and immunities secured by said act, and as hereinbefore amended, shall be forfeited.

CHAPTER XXXII.

AN ACT to incorporate the Episcopal School of North Carolina.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That Levi Silliman Ives, George W. Freeman, William M. Green, John Singletary, William Norwood, jr Duncan Cameron, Frederick J Hill, Simmons J. Baker, Thomas P. Devereux, G E Spruill, Edward L Winslow, William H Haywood jr and Charles Manly, and their successors be, and they are hereby created a corporation and body politic by the name and style of the Trustees of the Episcopal School of North Carolina, and by that name shall be capable of taking by purchase, devise or donation, real and personal estate, and of holding and conveying the same, and have such other powers, and enjoy such other rights as are usually incident to corporate bodies, and are not inconsistent with the laws and constitution of the State

II *Be it further enacted*, That the Trustees above named, except the first, shall allot themselves as equally as may be into three classes, the appointment of those of the first class, to be vacated at the expiration of the first year, of the second class, at the expiration of the second year; of the third class, at the expiration of the third year from and after the fourth day of May next, so that one third may be chosen every year, such choice to be made by the convention of the Protestant Episcopal Church in this State, the trustees to hold their places for three years, and until successors shall be chosen, to be capable of re-election. And the trustees shall have power to fill vacancies in their own body, whenever the same shall from any cause exist by making temporary appointments, to expire when the convention shall make an appointment for the regular term, and not before. And should it so happen that by reason of the discontinuance of the sittings of the convention or any other cause, the appointing power hereby vested in the convention, shall cease to be exercised; the trustees shall then have power to provide for filling vacancies in their own body in such man-

ner as they may prescribe, until the convention shall regularly resume its functions in the premises.

III. *Be it further enacted*, That the Bishop of said church in this State, for the time being shall be ex oficio a trustee and a presiding officer of the board and head of the corporation; but when there shall be no Bishop, the trustees may appoint one of their own body to preside therein.

IV. *Be it further enacted*, That the General Assembly may at any time repeal this act without any proceedings by information or otherwise; provided that such repealing act, shall not work a forfeiture of the property belonging to the corporation, and shall not go into operation until one year after its passage

V. And be it further enacted, that this act shall be in force from and after the ratification thereof.

CHAPTER XXXIII.

AN ACT to establish Hookerton Academy, in the county of Greene, and to incorporate the Trustees thereof

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by he authority of the same, That the Academy at Hookerton in the county of Greene, be, and the same is hereby established, and shall henceforth be known by the name of Hookerton Academy.

II. And be it further enacted, That Henry Miller, Nathan Hooker, Chas. Edwards, Orlando Canfield, James Albritton and James Harper, be, and they are hereby declared to be a body politic and corporate, to be known and distinguished by the name of the trustees of Hookerton Academy in the county of Greene, and by that name shall have perpetual succession, and that they and their successors by the name aforesaid, shall be able and capable in law to sue, and be sued, plead and be impleaded, take, demand, receive and possess all moneys lands or other donations which may be given for the use of the said Academy, and the same apply according to the will of the donor, or as a majority of said trustees may deem most advantageous to the prosperity of the said academy.

III. And be it further enacted, That said trustees, or a majority of them shall have full power and authority to make all such bye laws, rules and regulations for the government of said Academy, and the preservation of order and good morals, as are usually made in such Seminaries; and also to fill all vacancies which may happen by death, resignation or removal of any of the trustees of the said Academy, whose powers when appointed shall be, and are hereby declared equal in all respects to those appointed by the provisions of this act.

IV. Be it further enacted, That all laws and clauses of laws coming within the purview and meaning of this act, be, and the same are hereby repealed and made void.

CHAPTER XXXIV.

AN ACT to incorporate Conetoe Academy in Edgecombe County

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That William Thigpen, William C. Leigh, Eaton Cobb, John Cobb, Frederick Jones and John H. Daniel, and their successors in office, be, and they are hereby declared a body politic and corporate, to be known and distinguished by the name, of the "Trustees of Conetoe Academy," and by that name, shall have perpertual succession and a common seal, and shall be able and capable in law of holding lands and tenements sufficient for the purposes of the school, and of suing, and being sued, plead, and be impleaded.

I. *Be it further enacted*, That the said corporation shall have power to make all rules and regulations and bye-laws, not inconsistant with the constitution and laws of the land, which shall and may be necessary for the good government of the said school and the management of its property and finances, and also to fill all vacancies among the Trustees from time to time occasioned by death,

resignation or other cause; and also to appoint such officers as they may think proper.

CHAPTER XXXV.

AN ACT to establish Ford Creek Academy in the County of Granville, and to incorporate the Trustees thereof.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That Pleasant Floyd, Lewis Green, Wyatt Cannaday, James Wyche and Eaton J. White, be, and they are hereby incorporated by the name, and style of the trustees of Ford Creek Academy, and by that name, shall be able and capable in law to sue and be sued, plead and be implead, acquire by purchase gift or otherwise to them and their successors, estate real and personal for the use of the academy, and possess and enjoy all other powers, privileges and immunities incident to bodies corporate of the like nature.

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

CHAPTER XXXVI.

AN ACT to establish Pleasant Grove Academy in the county of Currituck, and to incorporate the Trustees thereof.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That William C. Etheridge, John Brockett, John Humphries and Tully Bell, be, and they are hereby declared to be a body politic and corporate, known and distinguished by the name and style of the "Trustees of Pleasant Grove Academy;" and by that name and style shall have perpetual succession, and a common seal, and they or a majority of them, or their successors, shall be able and capable in law to take, demand, receive and possess money, goods, and chattles, lands and tenements, for the use of the said Academy, and apply the same according to the will of the donor.

II. Be it further enacted, That the said Trustees, or a majority of them, and their successors, shall be able and capable in law to sue and be sued, plead and be impleaded, in any court of this state, and to do all such acts and things as may be necessary and proper to be done by bodies corporate, for the advancement and promotion of science in said institution, not inconsistent with the laws of the State.

III. Be it further enacted, That whenever any of the aforesaid Trustees shall die, remove, resign, or by any other means become incapable of performing their duties of Trustees of said institution, a majority of those remaining shall elect some fit and suitable person or persons in his or their stead, who shall have the same power as their predecessors.

CHAPTER XXXVII.

AN ACT to amend an act incorporating the Pittsboro' Academy.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That the act incorporating the Pittsboro' Academy be so amended, and is hereby amended, so as to authorise the remaining trustees of the same to fill any vacancies which have heretofore occurred, or may hereafter occur in the board of trustees of the said academy, by electing such number of trustees as they may deem essential to the interests of the said institution.

CHAPTER XXXVIII.

AN ACT to amend an act, passed in the year one thousand eight hundred and thirty three establishing a female academy in the county of Northampton.

Be it enacted by the General Assembly of the State of North Carolina, and

it is hereby enacted by the authority of the same, That there shall be established in the Town of Jackson in the county of Northampton a Male and Female Academy, to be known and styled the North Carolina Male and Female Academies; and that William B. Lockhart, Isaac Hall, Sherly Tisdale, Ethelred J. Peoples, Samuel B. Spruill, Collin W. Barnes, Bryan Randolph, Samuel Calvert, Matt. Calvert, J. Amis, James H. Wood and William Bottom, be, and they are hereby appointed Trustees of said Academies, five of whom shall constitute a quorum to transact all business which may come before them as Trustees aforesaid.

II. Be it further enacted, by the authority of the same, That all that part of Macon street in the town of Jackson lying west of Calhoun street, and running due west from said street to Samuel Calvert's line, and bounded on the North of John White's stable lots, and on the south by his tavern lots be and the same are hereby vested in the said Trustees and their successors forever, for the benefit of said Academies, in as ample and full manner as if said street or parcel of Ground had been procured by purchase or otherwise—and that this act shall be in force from and after its ratification.

CHAPTER XXXIX.

AN ACT to amend an act passed in the year one thousand eight hundred and sixteen, entitled an act to establish an Academy at Williamston in the county of Martin.

Whereas the Trustees heretofore appointed for said Academy, have died, removed, failed or refused to act: therefore,

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That D. W Bagley, Henry Williams, William Watts, William Hardison, C B Hassell, John G Williams and Asa Biggs, be, and they are hereby appointed trustees for said Academy, with all the powers given to the original trustees, a majority of whom shall have power to transact business and fill all vacancies that may occur by death, removal or resignation.

II. Be it further enacted, That all laws passed heretofore coming within the purview of this act, be, and the same are hereby repealed, and this act shall be in force from and after the passage thereof.

CHAPTER XL.

AN ACT for the better regulation of the County Courts of Lincoln.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That the Court of Pleas and Quarter Sessions held for the county of Lincoln, on the seventh Monday after the fourth Monday in September, shall hereafter be holden on the sixth Monday after the fourth Monday in September, in each and every year, any law, usage, or custom to the contrary notwithstanding.

CHAPTER XLI.

AN ACT regulating the times of holding one of the terms of the Courts of Pleas and Quarter Sessions, for the county of Macon.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That hereafter the courts of pleas and quarter sessions, held for the county of Macon on the last Monday in July, shall be held on the third Monday in August, in each and every year, any law to the contrary notwithstanding.

CHAPTER XLII.

AN ACT to amend an act passed in one thousand eight hundred and thirty concerning the County Court of Rowan.

Be it enacted by the General Assembly of the State of North Carolina, and it

is hereby enacted by the authority of the same, That the justices of the peace of said county, shall have power to appoint or dispense with, at their discretion, two of the Grand Juries for the May and November sessions of the County Court of said County, in each and every year, any law or usage to the contrary notwithstanding.

CHAPTER XLIII.

AN ACT for the better regulation of the County Courts of Brunswick.

Be it enacted by the General Assembly of the State of North Carolina and it is hereby enacted by the authority of the same, That at the first term of the court of pleas and quarter sessions, which shall be held for the county of Brunswick, after the first day of May next, a majority of the acting justices being present, shall arrange themselves into classes of five each, for the purpose of holding the courts of said county; and when arranged as aforesaid, shall number their different classes, and shall cause the clerk of said court to inscribe the number and the names of the justices composing the different classes, in a book to be kept for that purpose.

II. Be it further enacted, That it shall be the duty of the first class, or a majority of them, arranged as aforesaid, to hold the first term of said court which shall happen after said arrangement; that the second class shall hold the term next thereafter; and so on in succession throughout the several classes arranged as aforesaid; and it shall be the duty of the clerk of said court to issue notices to the sheriff to be served on the justices, informing them of the time when under this act they shall be required to hold their courts respectively.

III. Be it further enacted, That if it should so happen that three of the five justices appointed under this act, to hold the court as aforesaid, shall not attend from any cause to hold the same, it shall be lawful for those that do attend to call in another, or other justices of said county, to hold said court; which justice or justices so called in shall be bound to hold said court, in as full and ample a manner as if he or they had been classed therein, and notified of the same; provided nevertheless, that said justice or justices may in the presence of said court have the name or names of the delinquent justices substituted in place of theirs in the class to which they themselves belonged.

IV. Be it further enacted, That the justices appointed under this act to hold the said courts, or a majority of them, shall be competent to do and perform any matter, and exercise all the power and authority, which by the existing law a majority or seven magistrates are required to do; provided however, that this act shall not be so construed as to prevent any or all the justices of said county from going on the bench, when the sheriffs bonds are required to be taken or renewed or at any other time, when they may deem proper to act in their official capacities; and provided further, that in any case where insufficient bonds are taken by the courts arranged as aforesaid, all the justices in the county, who are absent at the time the bonds are so taken or renewed, shall be as much bound for said insufficiency as though he or they were present: provided however, that in case of insufficient bonds, the justices or any of them may appear at the following court thereafter, and require additional security on said bond or bonds.

V. Be it further enacted, That the sheriff shall notify the justices of the peace of said county, to attend the court as required by this act, when they are to be classed; and said justices, when met, a majority being present, shall be authorised to make all rules, regulations and by-laws, which they may deem necessary for the purpose of enabling them to carry this act into effect.

CHAPTER XLIV.

AN ACT making valid certain proceedings of the county courts of Haywood county.

Whereas, the courts of pleas and quarter sessions, of the county of Haywood, which were required by law to be holden on the third Monday after the fourth

Monday in March and September, eighteen hundred and thirty-five, were by mistake, as the powers and duties of the said courts held on the first Monday after the fourth Monday in March and September of the said year; whereby, doubts have arisen as to the validity of the proceedings of said courts. For remedy thereof,

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That all the proceedings of the said courts be, and they are hereby declared to be good and valid in law, to all intents and purposes, as if the said courts had been opened and held at the periods prescribed by law; any usage or custom to the contrary notwithstanding.

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

CHAPTER XLV.

AN ACT directing the time of holding the Court of Pleas and Quarter Sessions in the county of Mecklenburg.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That from and after the next sitting of the county court of pleas and quarter sessions, for the county of Mecklenburg, said court shall be adjourned until the fourth Monday in April, one thousand eight hundred and thirty-six; to which time, all writs and other process shall be made returnable, and the regular meeting of the court aforesaid, shall, thereafter, be on the fourth Monday in July, October, January, and April, in each and every year.

II. Be it further enacted, That it shall not be lawful for the justices of the peace, in the county aforesaid, holding said court, to direct a jury to be summoned to attend any other court of pleas and quarter sessions for said county, than the April and October terms of said court; and that the justices aforesaid, shall not be authorized to hold said court longer than one week.

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

CHAPTER XLVI.

AN ACT to repeal an act passed in the year one thousand eight hundred and thirty-three, entitled an act directing the Judges of the Superior Court of Hyde county, not to take up State cases before the third day of Court.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That from and after the passage of this act, the above recited act is hereby repealed.

CHAPTER XLVII.

AN ACT to alter the times of holding the Courts of Pleas and Quarter Sessions for the county of Beaufort.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That from and after the second Monday in January, one thousand eight hundred and thirty-six, the said courts shall commence on the following days, and no other, that is to say, on the first Monday, in the months of March, June, September and December, in each and every year thereafter.

II. Be it further enacted, That all writs and other process, which the Clerk of the court of pleas and quarter sessions for said county may issue, from and after the second Monday in January, as aforesaid, shall be, and the same are hereby made returnable, under the same rules, regulations, and penalties, as are already prescribed by law, to the term of said court; which is to be held on the first Monday in June next, and after that, to the terms in course, as ordered and ar-

ranged in this act; and that all causes that may be continued at the January term, one thousand eight hundred and thirty-six, of said court, as heretofore constituted, shall stand for trial at the June term of said court, as aforesaid.

III. Be it further enacted, That an act passed at the last General Assembly, entitled an act to alter the time of holding the courts of pleas and quarter sessions, for the county of Beaufort, be, and the same is hereby repealed.

CHAPTER XLVIII.

AN ACT for the better regulation of the Courts of Pleas and Quarter Sessions for the county of Onslow.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That the justices of the court of pleas and quarter sessions, for the county of Onslow, may, and they are hereby authorized, at the first term of said court, after the first day of May next, and at the first term of said court after the first day of May in each and every year thereafter, to elect, from among themselves, five fit persons to hold the said courts of said county; three of whom shall be a competent number to hold the said court, and discharge the duties thereof.

II. Be it further enacted, That the five persons so elected, or a majority of them, shall be competent to do and perform any business, matter, or thing, which, by the present laws, seven justices are authorized to perform; and they shall, in all cases, be governed by the same rules, regulations, and restrictions, as govern other county courts in the State; and the said justices, so elected, shall be entitled to receive, each, a sum not exceeding three dollars, nor less than one dollar per day; which sum shall be fixed by a majority of the justices of said county, for their services during the time they are employed in the discharge of their duties in said court, which shall be paid by the county Trustee, upon the certificate of the clerk of said court, showing how many days any such justice, so to be elected as by this act required, shall have holden the said court.

III. Be it further enacted, That the justices of the court of pleas and quarter sessions aforesaid, shall annually lay a tax sufficient to defray the expenses accruing by reason of the provisions of this act, which tax shall be levied, collected, and accounted for, by the Sheriff of said county, in the same manner, and under the same penalties, as other county taxes are, by the existing laws of this State; any law, usage, or custom to the contrary notwithstanding.

IV. Be it further enacted, That in all elections under and by this act, it shall be necessary that a majority of the acting justices of said county, shall be present at the time; and that this act shall be in force, from and after the first day of May next.

CHAPTER XLIX.

AN ACT compelling the Justices of the Peace of New Hanover county, to attend the term of the county Court of said county, whenever a majority of the Justices of said county are required to be present.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That if any justice of the peace of New Hanover county, shall hereafter fail to attend the court, whereat a majority of the justices of said county are required to be present, such justice shall be fined the sum of one hundred dollars, unless he can give some lawful excuse for his absence, as hereinafter provided; and thereupon, the clerk of said court shall, and he is hereby requested, to issue a scire facias to such justice or justices, returnable to the next county court, commanding him or them to show cause why said fine shall not be made absolute; and if any such justice shall fail to show lawful excuse for his absence, said fine shall be made absolute; and the clerk is hereby required to issue execution therefor, and the amount thereof, when collected, shall be paid over by the Sheriff to the county Treasurer, for the use of the county.

II. Be it further enacted, That no reason shall be deemed a lawful excuse for the absence of any justice of the peace, as aforesaid, except the sickness of himself or some of his family, or absence from the county, or some unavoidable prevention of his reaching the court.

III. Be it further enacted, That if any justice of the peace shall neglect, or be unable to pay the fine hereby imposed, within three months after final judgment is rendered for the same, he shall forfeit his office; and his failure or inability to pay said fine ipso facto, shall vacate his commission, without any further, or other proceeding whatever: Provided, however, that nothing in this act shall be so construed, as to prevent the said justice from being indicted for his neglect as aforesaid.

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

CHAPTER L.

AN ACT authorising the making a Turnpike road in Haywood county, and incorporating a Company for that purpose.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That Daniel Bryson, William H. Thomas, John B. Love, William Johnson, and Nelson G. Howell, be, and they are hereby appointed commissioners with power and authority to open books, and receive subscriptions to the amount of two thousand dollars, which sum shall constitute the capital stock of the company hereby incorporated for the purpose of making and keeping in repair a Turnpike road, commencing near Heregas' old place on Richland Creek in Haywood county, running thence along or near the State road as far as Daniel Bryson's in said county; the said road to be, when completed, of the following dimensions, that is to say, sixteen feet wide clear of obstructions, except when side cutting be necessary, in which case the road shall be twelve feet wide, all necessary bridges shall be twelve feet wide, and the declivities of the road shall not exceed one foot perpendicular to nine feet horizontal.

II. Be it further enacted, That the aforesaid capital stock shall be divided into shares of twenty dollars each, and as soon as one thousand dollars of the capital stock shall be subscribed, it shall be the duty of the commissioners to notify the stockholders by advertisement, to require their attendance at such time and place as they may designate, and if stockholders holding a majority of the shares subscribed, shall attend said general meeting, it shall and may be lawful for the stockholders to appoint a president, treasurer and three directors for the term of one year, and until the next general meeting of the stockholders, and the president and directors when so appointed, and their successors in office, shall constitute a body corporate and politic in law, by the name and style of the Scott Creek Turnpike Company, may sue and be sued, plead and be impleaded before any court of record, or before any Justice of the Peace in this State, and as such shall have perpetual succession and a common seal, and have all other power and right incident to corporate companies, which may be necessary to carry into effect the object of this incorporation.

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

IV. Be it further enacted, That the owners of a majority of all the shares subscribed, shall have power to appoint commissioners, to lay off, and mark the location of said road, and make and ordain all bye-laws for the government and regulation of the said company and the officers thereof; and shall have authority at any time to remove from office the president and directors of the said company,

or any of them, and appoint others in their stead, and shall from time to time in general meeting; make all such rules and regulations as they may deem necessary for the well ordering and better regulation of the concerns of said company; the president and directors shall have power to make such rules and regulations, as may be necessary for the management of the affairs of the company, not inconsistent with the bye-laws of the stockholders, which shall be in force until the next general meeting, it shall further be the duty of the president, to make a full and fair statement of the affairs of the company to each general meeting of the stockholders, unless otherwise ordered, and employ such agents and officers as the officers of the company may require.

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

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

VII. Be it further enacted, That when the road shall be completed, as before directed, it shall and may be lawful for the company to erect a toll-gate at some convenient place on said road, and demand and receive the following toll, that is to say, for a man and horse, ten cents; for loose horses and mules, five cents; for hogs and sheep, one cent each; for cattle, two cents each per head; for six horse wagon, seventy five cents: for five horse wagon, sixty two cents and a half; for four horse wagon, fifty cents; for three or two horse wagon, thirty seven and a half cents; for one horse wagon, twenty five cents; for four wheel carriage of pleasure, fifty cents; for each gig, sulkey, or cart, twenty five.

VIII. Be it further enacted, That before any toll shall be collected as aforesaid the county court shall appoint one or more commissioners for the purpose of viewing, receiving and seeing that the said road is kept up, and if at any time the company shall suffer the road to get out of repair, and remain so for the space of one month, the president and directors shall be subject to indictment, and on conviction, shall be fined at the discretion of the court, and shall also have the gate opened and kept opened until the road shall be put in good repair, and the commissioners shall receive the sum of one dollar for every day they are necessarily engaged in receiving and making returns for said road, to be paid by the company.

IX. Be it further enacted, That all the hands which are now liable to work on the State road from the head of Scott Creek as far as Jason Elliot's, shall be subject to work four days in each and every year under the direction of the turnpike company, and shall not be subject to work on any other road in said county.

X. Be it further enacted, That nothing in this act contained shall render any citizen of the county of Haywood, liable to pay any of the above tolls.

XI. Be it further enacted, That if any person or persons shall, for the purpose of avoiding the payment of the above recited tolls, either by breaking through or going around the above recited gate, they shall be subject to pay five dollars, recoverable before any Justice of the peace for said county.

XII. Be it further enacted, That this act shall be in force from and after the ratification thereof; and that all the powers hereby granted shall cease and determine at the expiration of twenty years after the completion of said road.

CHAPTER LI.

AN ACT to authorize David T. Sawyer, to lay off and construct a Road, and for other purposes.

Be it enacted by the General Assembly of the State of North Carolina,

and it is hereby enacted by the authority of the same, That David T. Sawyer is fully authorized and empowered to lay off and construct a road from Elias Williams's in Camden county, to Philip Northern's in Currituck county, the nearest and most direct way, that may to him, the said Sawyer, be deemed convenient and practicable; and he is hereby vested with full power and authority to erect a gate, or gates across said road, and exact, ask and receceive toll or tolls, for passing the same, according to the rates hereinafter specified, and in the event of any person refusing to pay such toll or tolls, to recover the same, in the name of David T. Sawyer, or his legal representatives, before any jurisdiction having cognizance thereof

II. Be it further enacted, That upon petition of said Sawyer, to the county court of Camden, praying that the lands of certain persons shall be condemned to his use, for the purpose of making said turnpike road, such persons being made defendants to said petition, and having notice by service of a copy thereof, at least ten days before the court, to which said petition is returnable; it shall be lawful for said court, to order the Sheriff to summon a jury to view the ground, which said Sawyer desires to have condemned, and said jury shall assess the damage, which the owner or owners of said lands be entitled to receive from said Sawyer, for the land condemned to his use, and the report of the jury being returned to the ensuing court of pleas and quarter sessions, and being by them approved, shall vest in said Sawyer, all the right and title in said lands of which the persons defendants to said petition were seized; provided, that such decree shall not vest such right, until said Sawyer shall pay or satisfy the proprietors of the land condemned, the damages assessed to them respectively by the said jury.

III. Be it further enacted, That when the said road shall be in good order, so that any person may pass with safety on horseback; the said Sawyer shall be entitled to demand and receive during the term of fifty years, and no longer, at some convenient place or places on said road, the following rates of toll, that is, for a four wheel pleasure carriage, seventy-five cents; for a two wheel pleasure carriage, twenty-five cents; for a four horse wagon, sixty cents; for a three horse wagon, fifty cents; for a two horse wagon, forty cents; for a cart, twelve and a half cents; each single horse eight cents; for horned cattle, hogs and sheep, each two cents.

IV. Be it further enacted, That said Sawyer is allowed the term of five years, to complete said road, and no longer; and that this act shall be in force from its ratification.

CHAPTER LII.

AN ACT to alter and amend an act, passed in one thousand eight hundred and thirty four, chapter one hundred and twenty four, entitled an act appointing commissioners to lay off a road from Morganton in Burke county, by Burnsville and Barnett's Station, to the Tennessee line.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same; That so much of an act of assembly passed in the year one thousand eight hundred and thirty four, chapter one hundred and twenty four, entitled an act appointing commissioners to lay off a road from Morganton in Burke county, by Burnsville and Barnett's Station to the Tennessee line, as requires that a road shall be laid off from Burnsville to Barnett's station, be, and the same is hereby repealed.

II. Be it further enacted, That the county court of Yancey, a majority of the Justices being present, shall have power to appoint three commissioners, who shall receive a compensation, not exceeding two dollars per day, whose duty it shall be to lay off a public road, over the best ground the intervening country will afford, from Burnsville to Allens Stand, on Allens road, or to such other point on the Tennessee line, as a majority of them may deem most advisable, from said stand to the Iron mountain road, and such commissioners shall act under the same oath and restrictions as Jurors in laying off public roads.

CHAPTER LIII.

AN ACT to authorize the laying out and establishing a Turnpike Road from the South Carolina line at some point near the Block House in Rutherford county, to C n Creek bridge in Buncombe county.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That Francis Alexander, William S. Mills, Robert Jones and Richard Morris, or any three of them be, and they are hereby appointed to lay off a road from a point on the South Carolina line, somewhat east of a place called the Block House in Rutherford county, thence the nearest and best route across Howards Gap and the Sandy ford on Green river to Cain creek bridge in Buncombe county: should a vacancy occur in said commission, the same to be supplied by the other members of the board, each of which shall be paid one dollar per day for ordinary services, with an addition of one and a half dollars per day, making two and a half dollars to said Francis Alexander, who is to act as Topographical engineer to the board.

II. Be it further enacted, That said Commissioners shall proceed as soon as practicable, and survey and lay off said road, to be not less than twenty feet wide, except in different places which may be narrowed by the commissioners so as to suit the ground. The ascent or descent of no part of which road shall exceed one foot perpendicular to ten feet horizontal in a straight line, clear of all obstructions, so as to be a good road safe for the purposes of travelling with wagons and other wheel carriages.

III. And be it further enacted, That the said commissioners shall make a written statement of the distance to be turnpiked, the specifications of work to be required; a plat of which shall be filed in the county court offices of Buncombe and Rutherford; these said commissioners to assess the damages in favor of any person or persons through whose lands said road may pass, or in case the owners or persons interested in the said lands, or guardians of infant owners, shall object to such assessment, and demand a jury to assess said damages, then and in that case, said commissioners shall by themselves, or any person appointed by them, summon a jury of good and lawful men unconnected, who being first duly sworn to assess the damages, taking into consideration any advantage the said road may be to such person or persons, owners of said lands, shall upon their oaths assess the same, and such assessment, whether by said commissioners made, or by said jury, the same shall be certified by said commissioners or a majority of them, and deliver to the owners of the said lands, payable by the undertakers and owners of the turnpike road, and recoverable before any competent jurisdiction in this State, in the name and for the said owners.

IV. Be it further enacted, That the said commissioners shall prescribe the rates of toll, and the time within which the work shall be completed: provided, the same shall be done within three years; and provided the rates of toll shall not exceed those heretofore by law allowed on the Mills Gap Turnpike.

V And be it further enacted, That when the commissioners shall have so surveyed and completed the specification and rates of toll, they shall let the same to undertakers at public auction, at some convenient place on said road, they first giving forty days notice by advertisement in the Greensville Mountaineer, and such other modes of publication as they may devise; such undertakers to complete the work so required in the manner specified, and within the time prescribed.

VI. And be it further enacted, That such person, or persons, being competent to perform the work, as shall undertake at said auction for the shortest period of time to construct and keep up said road as required in the said specification, shall have the same exclusively as a turnpike road, be authorized to erect gates and require their tolls to be paid before passing the same.

VII And be it further enacted, That any person going round said gate, for the purpose of evading or eluding the payment of said tolls, shall be liable to the

penalty of five dollars, recoverable in the name of the undertaker and owners of said road, before any competent jurisdiction within the county where the act of evasion shall be committed; provided, such undertakers shall not demand tolls for said road, until the same shall have been passed upon by a majority of the commissioners, and by them received and determined upon as completed and furnished as by the stipulations required.

VIII. Be it further enacted, That on the bidding off the said road by any undertaker as required by this act, it shall be the duty of the commissioners to require and take from such undertakers, be they one or more, his or their bonds in the penalty of two thousand dollars, with sufficient security conditioned for the faithful performance of the work required for the completion of said road, which bond shall be made payable to the State of North Carolina, and recoverable as other bonds payable to the State, to the use and benefit equally of the aforesaid counties, as a fund for building and repairing bridges under the direction and order of their respective county courts.

IX. Be it further enacted, That said road shall, and is hereby when completed, made a public high road, the owner of which shall be indictable for negligence in not keeping the same in repair, either in the county or superior courts of the counties in which the part so out of repair shall lie, and be subject to fine and punishment as in other cases for negligence of overseers of public roads, and by the laws of this State, and be liable to have the gates thereon, thrown open, until repaired.

X. Be it further enacted, That the owners or undertakers of said turnpike road, shall and are hereby made liable for the wages allowed by this act, to the said commissioners, recoverable on due proof before any competent jurisdiction in the State.

XI. Be it further enacted, That it shall be the duty of one or more of said commissioners to view said road twice in every year, and report on oath to the jury of the county courts of the respective counties aforesaid, the condition thereof, and if the same should be negligently kept out of repair, and so reported, then the Solicitors of said counties in which said nuisance is suffered, shall prosecute the owners or persons having the interest in said road, for the time being, as in case of nuisances on other public roads.

XII. Be it further enacted, That persons living within four miles of said road, shall not be liable for tolls, except in cases of market wagons, pedlers carriages, and carriages of pleasure or profit; and in no case shall the mail stage or carriers of mails be liable for tolls, at rates exceeding two dollars per annum on horse mails and ten dollars per annum for mail coaches.

XIII. Be it further enacted, That this act be, and the same is hereby declared to be in force from and after the passage thereof.

CHAPTER LIV.

AN ACT, to repeal an act relative to hands working on roads in the counties of Burke and Buncombe.

Be it enacted by the General Assembly of the State of North Carolina and it is hereby enacted by the authority of the same. That an act passed in one thousand eight-hundred and thirty-four, entitled an act relative to the hands called to work on the State road leading from the old fort, in Burke county, to Asheville, in Buncombe county, be, and the same is hereby repealed.

CHAPTER LV.

AN ACT to incorporate the Franklin Turnpike Company, and for other purposes.

Whereas, William H. Thomas, of the county of Haywood, and Nimrod S. Jarrett of the county of Macon, became the subscribers for all the capital stock in

the Cowee Turnpike Company; herefore,

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That William H. Thomas and Nimrod S. Jarret, and their successors be, and they are hereby incorporated, and made a body politic and corporate in law, by the name and style of the "Franklin Turnpike Company," and by that name may sue and be sued, plead and be impleaded, in any court of record in this State, or before any justice of the peace; and shall have perpetual succession, and a common seal; and shall have and possess in common, all the rights and privileges which may be necessary to carry into full effect the objects of this corporation.

II. Be it further enacted, That as the said William H. Thomas and Nimrod S. Jarrett heretofore have become the subscribers for the entire amount of the capital stock in the Cowee Turnpike Company heretofore incorporated by an act entitled an act to improve the State road from the bank of the Tuckasejah River, by the way of Franklin to the Georgia line, passed in the year A. D. one thousand eight hundred and thirty three, and that it is hereby declared, that all the powers rights, privileges, and immunities heretofore belonging to the Cowee Turnpike Company, by virtue of the act of incorporation as aforesaid, be, and the same are hereby transferred, and vested in the Franklin Turnpike Company, and shall be used, exercised and enjoyed, in as full and ample a manner by the Franklin Turnpike Company, as if the said Cowee Turnpike Company had been regularly organized by the Stockholders, electing a president and directors, and shall be be liable to all the pains and penalties that the president and directors of the Cowee Turnpike Company, would have been subject to by the provisions of said act of incorporation.

III. Be it further enacted, That the Franklin Turnpike Company may proceed to put up a toll gate across said road, and receive the tolls prescribed by the before recited act; and this act shall be in full force from and after its passage, and all laws coming within the purview and meaning of this act, be and the same are hereby repealed.

CHAPTER LVI.

AN ACT to amend an act, entitled "An act to incorporate the Mattamuskeet Canal and Rosebay Turnpike Company," passed at the last Session.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That the Mattamuskeet Canal and Rosebay Turnpike Company be, and the same are hereby empowered to have and to hold, enjoy and use for the purpose of said corporation, as much land on the west, and north side of the Mattamuskeet Canal, as shall extend to the distance of ten feet, on said side, and no further.

II. Be it further enacted, That the said corporation shall be liable to pay damages, that arise to any person or persons, by taking their land as aforesaid; and when said lands cannot be obtained by voluntary agreement, the damages are to be estimated, and recovered in manner and form following, to wit: that in case of disagreement of the parties, either may apply to the succeeding county or superior court of the county in which said land lies, for a jury of twelve freeholders; who shall go upon the lands and value the same, or make an assessment of such damages, as the case may be, as by them may be considered just and equitable; and who shall make such valuation or assessment upon oath administered, to them by the sheriff: provided, however, that the party applying for such jury, shall give the adverse party at least ten day's notice, if such owner or owners reside within the state; or if such owner or owners reside without the state, and have no known agent in it, the party applying for a jury in that case, must give notice, by advertising in a public newspaper and otherwise, as may be ordered by the court, before which application made for the condemnation of said land, of his, her or their intention, to make such application; and the

sheriff shall require from the jury a written statement of their valuation or assessment, signed by the whole of them; which statement he is required together with all the proceedings had thereon, to return to the next term of said court; which, when ratified by the court, shall be ordered to be registered; and upon payment of such damages so ascertained, shall vest in said corporation, during its existence, the full right, title and interest to the land so valued or assessed, to the extent of ten feet as aforesaid, and no further; and provided further, that the inhabitants along the said canal shall have at all times the power to cross said land, so condemned, in as full and ample a manner as they are now allowed by law to cross said canal; any thing in any act, to the contrary notwithstanding: provided, nevertheless, that nothing in this act shall be so construed, as to prevent the owners of lands, on the north and west side of said canal, from cutting ditch or ditches into said canal, sufficiently wide and deep for the draining of their lands.

CHAPTER LVII.

AN ACT appointing Commissioners to view and lay off a road from the Deep Gap in the Blue Ridge, to Stephen Thomas, in the county of Ashe, and for other purposes

Be it is enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same; That Thomas Greer, Isham Calloway, Joseph Tatum, Thomas Southerland, and Samuel Cooper, of the county of Ashe, be and they are hereby appointed commissioners to view and lay off a road from the Deep Gap in the Blue Ridge, to Stephen Thoma's; and there to intersect the state road; and the said commissioners, or a majority of them, shall proceed to view and lay off the said road and report to the county court of Ashe county, the probable amount of labour that will be required to open said road.

2. And be it further enacted, That at the term of Ashe county court, at which the said commissioners shall make their report; it shall be the duty of said court to pass an order for the opening of said road as laid off by the commissioners, and the court shall further order, that all the hands living within such distance of said road, as the court shall prescribe, in said order who are liable by law to work on public roads, shall work upon, and assist in opening said road under the direction of the aforesaid commissioners, or such other person or persons; as the court shall appoint for that purpose.

3. And be it further enacted, That if any person or persons liable by this act to work on or assist in opening said road, shall refuse so to do, when properly summoned for that purpose, he shall forfeit and pay such sum or sums per day, as is now allowed by law for each and every person refusing or failing to work on other public roads, to be recovered by warrant before any justice of the by the commissioners, or commissioners appointed by the said court, to superintend the opening of the said road, and that the same be applied to that purpose.

4. And be it further enacted, That when the said road shall be received by the court, it shall be the duty of the court, to appoint as many overseers thereof, as may be necessary; and to order that the same shall be kept in repair in the same manner, and under the same rules, regulations and restrictions as public roads are now kept in repair.

CHAPTER LXVIII. (58)

AN ACT to amend two several acts of the General Assembly passed in the year one thousand eight hundred and thirty four, to repair, alter and amend the road leading from Holemans ford to the deep gap on the Blue ridge, and other acts to amend and alter the road leading from the ford of the Yadkin commonly called Cas's ford to the Ashe county line on the Blue ridge.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That in addition to the commissioners already appointed in the last mentioned act, Daniel Wescoxson and Lar-

an Shepperd be, and they are hereby appointed commissioners with all the powers and authorities of the commissioners appointed by the above recited acts

II. Be it further enacted, that in lieu of John Hogler, Jesse Minton and William Brown are hereby appointed commissioners in addition to those already appointed, to view and lay off the Road from Holeman's ford to the deep Gap on the Blue ridge, with all the powers and authorities of the commissioners hereto fore appointed.

III. Be it further enacted, that it shall be the duty of the county court of Wilkes, on its being made known to it, that there is any person, through whose land said road may pass claiming damage on either of the said roads, to appoint a jury to assess the same.

CHAPTER LIX.

AN ACT to repeal, in part, the thirteenth section of an act passed in one thousand eight hundred and twenty-four, authorizing the making a Turnpike road in the county of Buncombe.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That from and after the passage of this act, the hands liable to work on the Buncombe Turnpike road, from the Tennessee line to the top of the Saluda gap, shall not be compelled to perform more than three days labour upon said road in each and every year; and that no hands shall be called out on said road, to work more than six miles from home.

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

CHAPTER LX.

AN ACT to amend an act passed in eighteen hundred and twenty-nine, chapter fifty-seven, entitled an act to authorize the court of pleas and quarter sessions of Burke county, to appoint commissioners to view and lay off a Turnpike road from the Lincoln line, to Jacob Mulls' mills, passing through the Laurel gap of the South Mountains, and for other purposes.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That the contractor or contractors for the road mentioned in the above recited act, when he or they shall have complied with the conditions prescribed by the second section of said act shall be, and he or they are hereby authorised to receive the following tolls, instead of those prescribed in the third section of the aforesaid act, to wit: For man and horse, twelve and a half cents; for loose horses, mares, mules, jackasses and jennies, six cents each; for hogs and sheep, two cents each; for beef cattle, three cents; for stock cattle, two cents each; for six-horse wagons, seventy-five cents each; for five horse wagons, sixty-two and a half cents each; for four horse wagons, fifty cents each; for four wheeled pleasure carriages, fifty cents each; and for carriages and vehicles of every other description, thirty-seven and a half cents each.

CHAPTER LXI.

AN ACT to amend an act passed in one thousand eight hundred and twenty, chapter one thousand and seventy-one, entitled an act for repairing and improving the road leading from the place known by the name of the old Fort in Burke county, over the Swannanoah gap to Ashville in Buncombe county, and thence to the point of intersection, with the road leading through Haywood county, to the southern boundary line of this State.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That Reuben Deaver, George W. Candler, Charles D. Pendland, and Madison Curtis, be, and they are hereby appointed commissioners in the county of Buncombe, to view, mark, and point out such alterations and amendments, as they, in their judgment, may think right and proper, on the public road leading from Ashville, in Buncombe

county to Waynsville in Haywood county, as far as the line of Haywood county; that they or any three of them, shall be sufficient to perform the duties aforesaid, after taking the oath prescribed for jurors of view, before any justice of the peace for Buncombe county; that they make report of their proceedings to the next county court of Buncombe, which shall happen after they are notified of their appointment; that the several overseers of the said road shall, forthwith, proceed to clear out and put in lawful repair, the road thus marked by the said commissioners; which thereafter, shall be deemed and considered the public road.

CHAPTER LXII.

AN ACT to amend an act, entitled an act for cutting a navigable canal from the waters of Elizabeth river, in the State of Virginia, to the waters of Pasquotank river, in North Carolina passed in Virginia, December the first, one thousand seven hundred and eighty-seven.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That the sixth section of the act aforesaid, be so altered and amended, that in case of the death, removal, resignation, or incapacity of the president or any of the directors, the board of directors may elect one of their own body, or any stockholder of the company, to supply the vacancy thus created; and the person so elected, shall hold such appointment until the next meeting of the stockholders, and no longer.

II. Be it further enacted, That after the next general meeting of the stockholders of the Dismal Swamp Canal Company, on the first Monday in May next, the next general meeting shall be on the first Monday in November, one thousand eight hundred and thirty-six, and continued, by adjournment, as heretofore, and on the first Monday in November, in each year afterwards.

III. Be it further enacted, That at the election of president and directors of the said company, which shall take place in May next; the same shall be elected until the first Monday in November, one thousand eight hundred and thirty-six: when the president and directors shall be elected for one year, and so shall be elected on the first Monday of November in each year, in manner and form as heretofore.

CHAPTER LXIII.

AN ACT to divorce Tempe Hall.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That Tempe Hall, of the county of Wake, and wife of Thomas Hall, be, and she is hereby declared to be separated and divorced fully and absolutely from her husband Thomas Hall, and that she be restored to all the privileges and immunities of a feme sole, and enjoy the same, as amply and entirely, as if she had never been connected by the bonds of matrimony with her said husband Thomas Hall.

CHAPTER LXIV.

AN ACT to divorce Esther E. Nelson.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That Esther E. Nelson, of the county of Craven, be, and she is hereby declared to be divorced fully and absolutely from her husband Josephus Nelson; and that she be restored to all the privileges and immunities of a feme sole, and enjoy the same, as amply and entirely, as if she had never been connected by the bonds of matrimony with her said husband, Josephus Nelson.

II. Be it further enacted, That this act shall take effect from and after the ratification thereof.

CHAPTER LXV.

AN ACT to divorce Elizabeth M. Starnes, of the county of Macon.

Be it enacted by the General Assembly of the State of North Carolina,

and it is hereby enacted by the authority of the same, That Elizabeth M. Starnes who was Elizabeth M. Cockerran, of the county of Macon, be, and she is hereby declared to be divorced fully and absolutely, from her husband John Starnes, and that she be restored to all the privileges and immunities of a feme sole, and enjoy the same as amply and entirely as if she never had been connected by the bonds of matrimony with her said husband John Starnes.

II Be it further enacted, That this act shall take effect from and after the ratification thereof.

CHAPTER LXVI.

AN ACT to divorce Margaret P. Spear, from her husband Alexander Spear.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That from and after the passage of this act, Margaret P. Spear, who was Margaret P. Williams, of the county of New Hanover, be, and she is hereby declared to be divorced fully and absolutely from her husband Alexander Spear, and that she be restored to all the privileges and immunities of a feme sole, and enjoy the same as amply and entirely, as if she had never been connected by the bonds of matrimony with her said husband Alexander Spear.

CHAPTER LXVII.

AN ACT to divorce Thomas Roberts.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That Thomas Roberts, of Orange county, be, and he is hereby divorced from his wife Martha, in as full and ample a manner, as if he never had been married to the said Martha, any law to the contrary notwithstanding.

CHAPTER LXVIII.

AN ACT to divorce Equilla S. Bennet, of the county of Pitt.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That Equilla S. Bennet, of the county of Pitt, be, and she is hereby divorced from her husband John C. Bennet, and restored to all the rights and immunities of a feme sole, in as full and ample a manner, as if she had never been married.

CHAPTER LXIX.

AN ACT to divorce Elizabeth H. M'Caw, of the county of Rowan, from her husband William B. M'Caw.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That Elizabeth H. M'Caw, of the county of Rowan, be, and she is hereby declared to be divorced fully and absolutely from her said husband William B. M'Caw, and that she be restored to all the privileges and immunities of a feme sole, and enjoy the same as amply and entirely as if she had never been connected by the bonds of matrimony with her said husband William B. M'Caw.

CHAPTER LXX.

AN ACT to divorce Catharine Parks, from her husband Gabriel Parks.

Be it enacted by the General Assembly of the State of North Carolina and it is hereby enacted by the authority of the same, That Catharine Parks of the county of Buncombe, be, and the same is hereby declared to be divorced fully and absolutely from her said husband Gabriel Parks, and that she be restored to all the privileges of a feme sole, and enjoy the same as amply and entirely, as if she had never been connected by the bonds of matrimony with her said husband Gabriel Parks.

CHAPTER LXXI

AN ACT to divorce Lucy Colvert.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That Lucy Colvert, of the county of Granville, be, and she is hereby declared to be separated and divorced fully and absolutely from her husband Thomas Colvert, and that she be restored to all the privileges and immunities of a feme sole, and enjoy the same as amply and entirely, as if she had never been connected by the bonds of matrimony with her said husband Thomas Colvert

CHAPTER LXXII.

AN ACT to divorce William Hines.

Be it enacted by the General Assembly of the State of North Carolina and it is hereby enacted by the authority of the same, That William Hines, of the county of Wayne, be and he is hereby declared to be divorced from his wife Elizabeth, and shall hereafter possess all the rights and privileges of a single man.

CHAPTER LXXIII.

AN ACT to divorce Margaret Massey.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That Margaret Massey of the county of Chowan, be, and she is hereby declared to be divorced from her husband John H. Massey, and hereafter, shall be entitled to possess and enjoy all the rights, privileges, and immunities of a *feme sole* in as full, and example a manner as if she had never been married.

CHAPTER LXXIV.

AN ACT to divorce Mahala Walls of Haywood county.

Be it enacted by the General Assembly of the State of North Carolina and it is hereby enacted by the authority of the same, That Mahala Walls of the county of Haywood, be, and she is hereby declared to be divorced from her husband James Walls, and shall hereafter possess and enjoy all the rights, privileges and immunities of a *feme sole,* in as full and ample a manner as if she had never been married.

CHAPTER LXXV.

AN ACT to divorce Frances Cloud of Chatham county.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That Frances Cloud of the county of Chatham, be, and she is hereby severed and divorced from her husband Jonathan Cloud, and shall hereafter enjoy all the rights, privileges and immunities of a *feme sole,* in as full and ample a manner as if she had never been married.

CHAPTER LXXVI.

AN ACT to divorce Elizabeth Silva.

Be it enacted by the General Assembly of the State of North Carolina and it is hereby enacted by the authority of the same, That Elizabeth Silva of the county of Macon, who was the wife of David Silva, be, and she is hereby declared to be separated and divorced from her said husband David Silva, and that she be entitled to all the rights, privileges and immunities of a *feme sole,* in as full and ample a manner, as if she had never been connected by the bonds of matrimony with the said David Silva.

CHAPTER LXXVII.

AN ACT to divorce William B. Morgan of Macon county, from his wife Polly Morgan.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That William B. Morgan of Ma-

con county, be, and he is hereby declared to be divorced from his wife Polly Morgan, previous to their intermarriage Polly Queen, as fully and as absolutely, as if he never had been connected with the said Polly Morgan in the bonds of matrimony, any law to the contrary notwithstanding.

CHAPTER LXXVIII.

AN ACT to abolish the Office of County Trustee in the county of Moore, and for other purposes.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by authority of the same, That from and after the eighteenth day of May, one thousand eight hundred and thirty six, the office of the county trustee in the county of Moore, shall be, and the same is hereby abolished, and the sheriff of said county for the time being, shall ever thereafter do and perform all the duties, now required to be perform by the county trustee, under the same rules, regulations and restrictions as are now prescribed by law, for the government of the county trustee, and in all cases, when suits are by law directed to be brought in the name of the county trustee, such suit or suits shall be brought in the name of the chairman of the court of pleas and quarter sessions of said county

II. Be it further enacted, That it shall be the duty of the sheriff of the county of Moore, to pay all county orders, when presented for payment, out of any county money, which may be in his hands at the time of such presentation, and annually on the first day of the terms of the court of pleas and quarter sessions of said county, at which the county taxes shall be laid, to return to the court, a full, true and fair account of all monies which may have come into his hands, for county purposes, setting forth separately and distinctly the sum received for taxes, and for each fine, forfeiture penalty and other sources, and also all payments made by him, to whom made, and for what purpose, which account shall be so stated, as to exhibit the exact balance, and the court to which such account may be returned, shall refer it to one or more discreet and suitable persons for examination, and it shall be the duty of the persons so appointed, to examine the said accounts, together with such vouchers as the sheriff may submit in support thereof, and report thereon to the same or next succeeding court; and if the court shall sanction the same, the clerk of such court shall record it at length in a book to be kept for that purpose, and set up a fair copy thereof in the court house, for which the courts shall annually allow the clerk, a reasonable compensation, and the court of pleas and quarter sessions of said county, may and shall from time to time, make all necessary orders, and order all necessary proceedings to ensure and enforce a correct and final settlement of such accounts in each and every year, and the court shall annually allow to the sheriff, a reasonable compensation for preparing and settling such accounts.

III. Be it further enacted, That if at any time, the sheriff of said county, shall fail to render accounts to the court at the time, and in the manner required by this act, he shall forfeit and pay the sum of one hundred dollars, and the court shall render judgment for the same, against such sheriff and his securities after giving ten days notice, in writing of the same, and execution may issue thereon, as on other judgments, and if such sheriff shall continue to fail to return such accounts, he shall for each succeeding term of said court, forfeit and pay a like sum of one hundred dollars, and judgment shall be entered in like manner, and with like effect, against such sheriff and his securities at each succeeding term of said court, until such account be returned as herein required.

IV. Be it further enacted, That if any sheriff of the county aforesaid, shall fail, or refuse to pay any county order when presented for payment, it shall be lawful for the owner of such order on giving such sheriff ten days previous notice, to remove the court of pleas and quarter sessions of said county, for judg-

ment against such sheriff and his securities, for the amount of such county order, with damages at the rate of twelve per cent, per annum thereon, from the time of such failure or refusal, and the court shall give judgment accordingly; Provided nevertheless, that if such sheriff shall make it appear to the satisfaction of the court that at the time of such failure or refusal, he did not have in his hands sufficient county money, subject to the payment of such order, the motion shall be dismissed at the costs of the plaintiff.

V. Be it further enacted, That the bond which any sheriff of Moore may hereafter enter into in any year, for the due collecting and accounting for the county and poor taxes of said county, shall be construed to extend to the performance of all the duties required by this act, and the sheriff and his securities shall be, and they are hereby made liable for all moneys, which may come into his hands by virtue of this act, and for the performance of all the duties herein required.

VI. Be it further enacted, That the county trustee now in office in the county of Moore, shall continue to discharge the duties of his office until the eighteenth day of May, one thousand eight hundred thirty six, at which time, he shall close his accounts, and deliver to the sheriff of said county, all the money and effects belonging to the county, which may be in his hands.

CHAPTER LXXIX.

AN ACT to abolish the Offices of County Trustee and Treasurer of Public Buildings, in the counties of Gates, Chowan, Mecklenburg and Onslow, and for other purposes.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same. That from and after the fifteenth day of August one thousand eight hundred and thirty-six, the offices of county trustee and treasurer of public buildings, in the counties of Gates, Chowan, Mecklenburg and Onslow, shall be, and the same are hereby abolished; and the Sheriffs of said counties for the time being, shall ever thereafter do and perform all the duties now required to be performed by the county trustee and treasurer of public buildings, under the same rules, regulations and penalties as are now prescribed by law, for the government of the county trustee and treasurer of public buildings, and in all cases where suits are by law directed to be brought in the name of the county trustee or treasurer of public buildings, such suit or suits shall be brought in the name of the chairman of the court of pleas and quarter sessions of said counties.

2. Be it further enacted, That it shall be the duty of the Sheriffs of the counties of Gates, Chowan, Mecklenburg and Onslow, to pay all county orders, when presented for payment, out of any county money which may be in their hands at the time of such presentation, and annually on the first day of the term of the court of pleas and quarter sessions of said counties, at which the county taxes shall be laid, to return to the court a full, true and fair account of all monies which may have come into their hands for county purposes, setting forth separately and distinctly the sum received for taxes, and for each fine forfeiture, penalty and other sources; and also all payments made by them to whom made, and for what purposes; which account shall be so stated as to exhibit the exact balance, and the court to which such account may be returned, shall refer it to one or more discreet and suitable persons for examination; and it shall be the duty of the persons so appointed to examine the said accounts, together with such vouchers as the Sheriff may submit in support thereof, and report thereon to the next succeeding court; and if the court shall sanction the same, the clerks of said courts shall record it at length, in a book to be kept for that purpose, and set up a fair copy thereof in the Court House; and the courts of pleas and quarter sessions of said counties may and shall from time to time, make all necessary orders, and order all necessary proceedings to insure and enforce a correct and final settlement of such accounts in each and every year.

3. Be it further enacted, That if at any time, either of the sheriffs of said counties shall fail to render accounts to the court at the time, and in the manner required by this act, he shall forfeit and pay the sum of one hundred dollars, and the court shall render judgment for the same, against such sheriff and his securities after giving ten days notice, in writing of the same, and execution may issue thereon, as on other judgments, and if such sheriff shall continue to fail to return such accounts, he shall for each succeeding term of said courts, forfeit and pay a like sum of one hundred dollars, and judgment shall be entered in like manner, and with like effect, against such sheriff and his securities at each succeeding term of said courts, until such account be returned as herein required.

IV Be it further enacted, That if any sheriff of the counties aforesaid, shall fail, or refuse to pay any county order when presented for payment, it shall be lawful for the owner of such order on giving such sheriff ten days previous notice, to remove the court of pleas and quarter sessions of said county, for judgment against such sheriff and his securities, for the amount of such county order, with damages at the rate of twelve per cent. per annum thereon, from the time of such failure or refusal, and the court shall give judgment accordingly; Provided nevertheless, that if such sheriff shall make it appear to the satisfaction of the court that at the time of such failure or refusal, he did not have in his hands sufficient county money, subject to the payment of such order, the motion shall be dismissed at the cost of the plaintiff.

V. Be it further enacted, That the bond which any sheriff of Gates, Chowan, Mecklenburg or Onslow, may hereafter enter into in any year, for the due collection and accounting for the county and poor taxes of said counties, shall be construed to extend to the performance of all the duties required by this act, and the sheriffs and their securities shall be, and they are hereby made liable for all money, which may come into their hands by virtue of this act, and for the performance of all the duties herein required; and it shall not be lawful for said sheriffs to claim or receive any additional compensation for the duties imposed on them by this act.

VI Be it further enacted, That the county trustees and treasurers of public buildings, now in office in the counties of Gates, Chowan, Mecklenburg and Onslow, shall continue to discharge the duties of their respective offices until the fifteenth day of August, one thousand eight hundred and thirty six, at which time, they shall close their accounts, and deliver to the sheriffs of their respective counties, all the money and effects belonging to the county, which may be in their hands.

CHAPTER LXXX.

AN ACT to abolish the Offices of County Trustee and Treasurer of public buildings in the counties therein named.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That from and after the first day of July in the year of our Lord one thousand eight hundred and thirty six, the county courts of the counties of Montgomery and Anson (a majority of the justices being present) shall have the power to abolish the office of county trustee and treasurer of public buildings in their respective counties if they see proper, and the sheriffs of said counties for the time being shall ever thereafter, do and perform all the duties now required to be performed by the county trustee, under the same rules, regulations and penalties, as are now prescribed by law for the government of the county trustee; and all suits which are now directed by law to be brought in the name of the county trustee, shall hereafter be bought in the name of the state. That it shall be the duty of the county trustee and treasurer of public buildings in each of said counties, whenever the county courts aforesaid shall abolish said offices, or either of them within ten days after the adjournment of said court, at which the office or offices aforesaid shall be abolished, to account and settle with, and deliver over to the sheriffs of their respective counties, all the money and

effects which shall be in their hands at the time their offices may be so abolished, which shall belong to their respective counties

II. Be it further enacted, That the bonds which the sheriffs of said counties shall enter into, in any year hereafter (in case said offices shall be abolished) for the due collection and accounting for the county and poor tax of said counties, shall be construed to extend to the performance of all the duties required by this act, and the said sheriffs and their securities shall be, and they are hereby made liable for all moneys, which may come into their hands by virtue of this act, and for the performance of all the duties herein required.

III. Be it further enacted, That it shall be the duty of the county courts of Montgomery and Anson, annually to appoint their committee of Finance, as is provided for already by law, whose duty it shall be annually to settle with the sheriffs and the other court officers of their respective counties, and report to the first court, which shall happen after the first day of October, in each and every year in their respective counties, the true state and condition of the finances of said counties—which report shall be taken and considered as *prima facie* evidence against all officers, which may be reported by them as delinquents.

CHAPTER LXXXI.

AN ACT to annex part of Wilkes county to the county of Ashe.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That all that part of the county of Wilkes, lying north and north-west of a line to be drawn from the extreme height of a Nob called Dockery Nob, running so as to include all the inhabitants, lying north of a direct line from said Nob to a point running north-east, so as to strike the now dividing line at five and half miles distance from Dockery Nob, running a north-eastwardly course until it strikes the Ashe county line, be added to Ashe county.

II. Be it further enacted, That all the inhabitants lying north of said line, shall be, and they are hereby annexed to the county of Ashe.

III. Be it further enacted, That nothing in this act contained shall prevent the sheriff of Wilkes, from collecting all the arrearages of taxes due him as sheriff of said county.

IV. Be it further enacted, That if any difficulties should arise as the boundary according to this act, that the county court of Wilkes and Ashe are hereby required to appoint commissioners with power and authority to run out, and mark the boundary line as above mentioned, and all expenses and charges arising in consequence of running said line, shall be paid by the county of Ashe, any thing to the contrary notwithstanding.

CHAPTER LXXXII.

AN ACT to alter in part the dividing line between the counties of Surry and Rowan.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That from and after the passage of this act, the main branch of the Yadkin river, from the point at which, in running south, it crosses the present line of division between said counties, to the point where it again intersects said line at Henry Mock's plantation on said river, shall be, and the same is hereby established as the boundary between said counties; and that all that part of Surry lying south of said boundary, be, and the same is hereby added to the county of Rowan, and that part of Rowan, lying north of said boundary, be, and the same is hereby added to the county of Surry, any law, usage or custom to the contrary notwithstanding.

CHAPTER LXXXIII.

AN ACT to amend an act, passed in the year one thousand eight hundred and twenty tw entitled an act for the division of Rowan county.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That the Yadkin river shall hereafter be the dividing line between the counties of Rowan and Davidson, any law, usage or custom to the contrary notwithstanding.

II. Be it further enacted, That if the Wardens of the poor in Rowan county wish and desire to sell their poor houses, and the lands on which they are situated, the county of Davidson shall purchase and pay for the same at a fair valuation, to be fixed by two disinterested men, one to be chosen by the Wardens of Rowan county, and the other by the county court of Davidson, neither of whom shall live in Rowan, nor Davidson county.

III. Be it further enacted, That the paupers now in the poor houses of Rowan county, be divided between the counties of Rowan and Davidson, in the following manner; all the paupers in said poor houses who originally belonged as citizens on the Salisbury side of the Yadkin river, shall be taken into Rowan county, and supported by said county, and all of said paupers who belonged as aforesaid, on the Lexington side of said Yadkin river, shall be taken into Davidson county, and supported by said county.

CHAPTER LXXXIV.

AN ACT to repeal an act, passed in eighteen hundred thirty three, entitled an act, directing the manner, in which constables shall be appointed in this State, as far as respects the counties of Hyde, Greene, Washington, Tyrrell and Currituck.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That from and after the passage of this act, the above recited act, be, and the same is hereby repealed so far as respects the counties of Hyde, Greene, Washington, Tyrrell and Currituck.

II. Be it further enacted, That the court shall appoint constables in each and every year, at the February term held for said counties, any law to the contrary notwithstanding.

CHAPTER LXXXV.

AN ACT to amend an act passed in the year eighteen hundred and twenty-four, entitled an act to establish a poor and work house in the counties of Jones and Randolph.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That so much of the first section of said act, passed in eighteen hundred and twenty-four, as gives the wardens of the poor of Randolph county, a discretionary power in the appointment of a keeper or overseer of the poor in said county, be, and the same is hereby repealed.

II. Be it further enacted, That it shall be the duty of the wardens in the said county, at the usual time and place of letting out the poor in said county, in each and every year after having advertised the same at the court house in Ashboro, and the other public places in said county, let out the poor of said county, with the poor house and all the appurtenances thereunto belonging, to the lowest bidder, and the person who shall agree to keep them at the lowest price, shall be keeper or overseer, as aforesaid; and it shall be the duty of the wardens aforesaid to take a bond from such person, in the sum of one thousand dollars, with two good and sufficient securities, payable to the Treasurer of said wardens for the time being and his successors in office, conditioned for the faithful performance of his duties as keeper or overseer of the poor of said county.

III. Be it further enacted, That this act shall take effect, and be in force from and after the end of the present year; for which the present keeper or overseer of said poor is employed. All laws and clauses of laws, coming within the meaning and purview of this act, be, and the same are hereby repealed.

CHAPTER LXXXVI.

AN ACT relating to the duty of the Sheriff of Chatham county.

Whereas, by an act of the General Assembly, passed in the year one thousand eight hundred and thirty-two, the offices of county Trustee and Treasurer of public buildings, were abolished in Chatham county, and no person or persons substituted in their stead; for remedy whereof,

Be it is enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same; That it shall hereafter be the duty of the Sheriff of Chatham county, to discharge and perform all the duties of county Trustee and Treasurer of public buildings in said county, in as full and ample a manner, as if the act of one thousand eight hundred and thirty-two had never been passed; and shall incur the same penalties for the non-performance of his duty, as were imposed on the said officers before the passage of the act of one thusand and eight hundred and thirty two.

II. And be it further enacted, That the Sheriff aforesaid, shall immediately commence suits against all public officers, and other persons who are in arrears with the said county.

CHAPTER LXXXVII.

AN ACT giving further time to the justices of the peace for the county of Haywood to return the lists of the taxable property of said County.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That the several justices of the peace for the county of Haywood, who may hereafter be appointed to list the taxable property for said county shall have until the first day of September, in each and every year to return said list so taken in, instead of the last twenty working days in July as they are now required to do by law, any law to the contrary notwithstanding.

CHAPTER LXXXVIII.

AN ACT to prevent frauds upon the revenue in the assessment of lands for taxation in Yancy county.

Be it enacted by the General Assembly of the State of North Carolina and it is hereby enacted by the authority of the same, That it shall be lawful for Yancy county court, in all cases where they may believe that frauds have been committed upon the revenue in the assessment of land for taxation, to require the sheriff to ascertain by survey the number of acres of land, held by such individual or individuals, and if it shall be ascertained that such tracts have been given in as of less extent than their true size or at less than their reasonable value, then the expenses incurred under the provisions of this act shall be collected in addition to the lawful tax accruing upon such lands; and if it shall be ascertained that no fraud has been committed by such individuals, then the expenses so incurred shall constitute a charge upon the county treasurer of said county.

CHAPTER LXXXIX.

AN ACT concerning the Patrol in the counties therein named.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That the county courts of Edgecombe, Brunswick, Onslow, Gates, Northampton, Bertie, Mecklenburg, Lenoir, and Martin, shall have power, at the county courts in their respective counties which shall happen after the first day of January in each and every year, a majority of the justices being present, should the said courts deem it necessary, to lay a tax not exceeding twenty five cents on each and every black poll in said county, for the purpose of paying the patrols of said counties.

II And be it further enacted, That it shall be the duty of the sheriffs of said counties to collect and account for the said taxes, as in other cases for county purposes.

III. And be it further enacted, That it shall be the duty of the said courts to direct the manner in which the fund so raised shall be paid to the patrol.

IV. And be it further enacted, That the said courts shall have power to appoint patrol committees, as directed in the act of one thousand eight hundred and thirty-

V. And be it further enacted, That should the patrol committees fail or refuse to comply with their duties, as specified in the said act of one thousand eight hundred and thirty, each member of said committees so refusing or neglecting, shall be subject to a penalty of ten dollars, to be recovered by warrant before any justice of the peace of the captain's district where such committee may reside, by any person sueing for the same; one half for the use of the informer, and the other half for the use of the patrol fund; subject to appeal as in other cases.

VI. And be it further enacted, that this act shall be in force, from and after the passage thereof.

CHAPTER XC.

AN ACT to prevent fire hunting in the night time in Hyde county.

Be it enacted by the General Assembly of the State of North Carolina and it is hereby enacted by the authority of the same, That it shall not be lawful for any person to hunt for wild water fowl upon the banks, shoals and reefs of Hyde county with fire light, or by moon light, upon any pretence whatsoever, and any person offending against the provisions of this act, shall be subject to a penalty of fifty dollars, recoverable before any justice of the peace, to the use of the poor of said county.

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

CHAPTER XCI.

AN ACT concerning inspection of flour in the Town of Fayetteville.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That from and after the ratification of this act, it shall and may be lawful for any person to sell flour in the town of Fayetteville, either in casks or otherwise, without submitting the same to inspection; any law, usage or custom to the contrary notwithstanding.

CHAPTER XCII.

AN ACT to incorporate the Conrad Gold Mining Company.

Be it enacted by the General Assembly of the State of North Carolina and it is hereby enacted by the authority of the same, That there shall be established in this State a mining company by the name and style of the "Conrad Gold Mining Company," the capital whereof shall be two hundred thousand dollars, divided into shares of one hundred dollars each.

II. Be it further enacted, That the said company, and the subscribers thereto, their successors assignees, shall be, and are hereby created and made a corporation and body politic in law and in fact, by the name and style of the "Conrad Gold Mining Company," and shall so continue for fifty years; and by the name and style aforesaid, they shall be, and are hereby made able and capable in law, to have, purchase, receive, possess, enjoy and retain to themselves, their successors and assigns, lands, rents, tenements, hereditaments, goods, chattels and effects; and the same to sell, grant, demise, alien, or dispose of, to sue and be sued, implead and be impleaded, answer and be answered, defend and be defended, in courts of record, or any other place; and also to make, have, and use a common seal, and the same to break, alter and renew at pleasure; and also to ordain, establish and put in execution such bye laws, ordinances and regulations as shall seem necessary and convenient for the government of said corporation, not being contrary to the laws of this State, or of the United States; and for the making

whereof, full power and authority are hereby given to the president and directors of said corporation; and generally to do and execute all acts, matters and things, which a body politic or corporation in law, may or can lawfully do or execute.

III. Be it further enacted, That John M. Morehead, Jesse Shelly, Henry Humphries, and such other persons as they may associate with them; are hereby appointed commissioners, and authorized at such time and place, as they or a majority of them may deem proper to open books, for the purpose of receiving subscriptions for shares of stock in said corporation; and that the said commissioners are hereby authorized to receive in payment or part payment of stock subscribed, any lands, mines, leases and mining property, at such price or valuation as they may deem just and reasonable; and at the time of subscribing, the sum of five dollars on each and every share, shall be paid to the said commissioners.

IV. Be it further enacted; That after the said stock shall have been subscribed, the commissioners aforesaid, or a majority of them, shall call a meeting of subscribers, by giving at least ten days public notice, which shall personally or by proxy, elect five directors, and they from among themselves, shall appoint a president, who together with the other directors shall have full power to make all rules, regulations and bye laws, necessary for the management, and well being of said company; and in all general meetings of the stockholders, whether personally or by proxy; they shall vote in proportion to the numbers of shares they respectively own.

V. Be it further enacted, That the president and directors shall have power to call in from time to time, as they may deem expedient by instalments, the whole, or any part of the capital stock subscribed as aforesaid, and in case of failure or refusal to comply with such requisition, the delinquent stockholders shall be subject to such rules and regulations as shall be established by the bye laws of said corporation; and the capital stock of said company shall be considered as personal property, and shall be assignable and transferable, under such rules and regulations, as shall be prescribed by the bye laws of said company.

VI. Be it further enacted, That as soon as the sum of twenty thousand dollars shall be paid in; the said stockholders, their successors and assigns, shall become a body politic and corporation, under the name and style aforesaid, and shall thenceforth go into operation, and continue for the term of fifty years aforesaid.

VII. Be it further enacted, that the stockholders shall meet annually at such time and place, as the president and directors shall deem most convenient for the stockholders, for the purpose of electing five directors, which directors shall appoint one of their own number president, who with the other directors shall appoint the other officers of the said company, and make rules, regulations and bye laws for the same.

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

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

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

XII. Be it further enacted, That this act shall go into operation immediately, from and after the passage thereof.

CHAPTER XCIII.

AN ACT to incorporate the Lincoln Gold Mining Company.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That a gold mining company shall be established in the State of North Carolina, by the name and style of the Lincoln Gold mining company, with a capital of one hundred and fifty thousand dollars, in shares of one hundred dollars each; and that Henry Yates, Archibald M'Intire and Daniel Couzins, and those who are and may hereafter become their associates, are hereby appointed commissioners, and are authorised at such times, and places, as they may deem expedient, after ten days advertisement of the same, to open books for the purpose of receiving subscriptions for shares of stock in said company

II. Be it further enacted, That when the sum of twenty five thousand dollars shall have been subscribed, the subscribers, their successors and assigns are hereby declared to be incorporated by the name and style of the Lincoln Gold mining company, and shall so continue to be for twenty five years, and as such may sue and be sued, implead and be impleaded, and shall have power to make all bye laws, rules and regulations not inconsistent with the laws of this State, which may be necessary to the well ordering and conducting of the affairs of the said company; and possess and enjoy all the privileges and rights of a corporation or body politic: Provided, that the business of the said company shall be confined to mining operations only.

III. Be it further enacted, That the said commissioners are hereby authorised to receive in payment of stock subscribed, any mining property at such valuation, as they may deem just and reasonable; and it is hereby further declared, that the stock of said company shall be held and deemed personal property.

IV. Be it further enacted, That the stockholders shall annually in the county of Lincoln, elect a president and three directors from their own body, who shall appoint the other officers of said company, and make rules and regulations for the management of the affairs of said company, and in all general meetings of the stockholders, who may appear by proxy, the stockholders shall vote in proportion to the shares of stock they may respectively own.

V. Be it further enacted, That any legal process against said corporation, may be served on the president thereof, or in case of his absence from the State, on a director, or if there be no director in the State, then service on any stockholder shall be sufficient, and the property of said corporation shall be liable to the satisfaction of the debts of said corporation by execution, attachment or any other legal process.

CHAPTER XCIV.

AN ACT to incorporate the long creek gold mining company in the county of Mecklenburg.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That a gold mining company shall be established in the county of Mecklenburg, North Carolina, by the name and style of the "Long Creek gold mining company," with a capital of one hundred and fifty thousand dollars, in shares of one hundred dollars each; and that David R. Dunlap, George Dunlap, and James D. Crawford, and all those who now are, or shall hereafter become their associates, are hereby appointed commissioners, and authorised, at such times and places as they may deem expedient, after ten days public advertisement of the same, to open books for the purpose of receiving subscriptions for shares of stock in said company.

2. Be it further enacted, That when the sum of twenty five thousand dollars shall have been subscribed, the subscribers, their successors and assigns, are hereby declared to be incorporated, by name and style of the Long Creek gold mining company, and shall so continue to be for twenty five years; and as such may sue and be sued, plead and be impleaded, and shall have power to make all bye laws

and regulations, not inconsistent with the laws of the state, which may be necessary to the well ordering and conducting of the affairs of the said company; and possess and enjoy all the privileges and rights of a corporation or body politic, provided the buisness of said company shall be confined to the purpose of mining only.

III. Be it further enacted, that the said commissioners are hereby authorised to receive in payment of stock subscribed, any mining property, at such valuation as they may deem just and reasonable; and it is hereby further declared that the stock of said company shall be held and deemed personal property.

IV. Be it further enacted, That the stock holders shall annually in said county elect a president and three directors from their own body, who shall appoint the other officers of said company, and make rules and regulations for the management of the affairs of said company; and in all general meetings of the stockholders, who may appear by proxy, the stockholders shall vote in proportion to the stock they may respectively own.

V. Be it further enacted that any legal process against said corporation may be served on the President thereof, or, in case of his absence from the State, service of the same on director, or if there be no director in the State, the service on any stockholder shall be sufficient, and the property of said corporation shall be liable to the satisfaction of the debts of said corporation, by execution, attachment or other equitable process.

CHAPTER XCV.

AN ACT to incorporate the Concord Gold Mining Company.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That a gold mining company shall be established in the county of Cabarrus, State of North Carolina, by the name and style of the Concord gold mining company, with a capital of two hundred and fifty thousand dollars in shares of one hundred dollars each; and that John Harris, Samuel Harris and Edward N Gregory, and all those who now are or shall hereafter become their associates, are appointed commissioners, and are authorized at such times, and at such places, as they may deem expedient after ten days public advertisement of the same, to open books for the purpose of receiving subscriptions for shares of stock in said company.

II. Be it further enacted, that when the sum of twenty-five thousand dollars shall have been subscribed, the subscribers, their successors and assigns are hereby declared to be incorporated by the name and style of the Concord gold mining company; and shall so continue to be for twenty five years, and as such may sue and be sued, plead and be impleaded, and shall have power to make all bye laws and regulations not inconsistent with the laws of this state, or the United States, which may be necessary to the well ordering and conducting of the affairs of the said company, and possess and enjoy all the rights and privileges of a corporation or body politic, provided that the buisness of the said company shall be confined to the purposes of mining only.

III. Be it further enacted, That the said commissioners are hereby authorised to receive in payment of stock subscribed any mining property at such valuation as they may deem just and reasonable, and it is hereby further declared that the stock of said company shall be held and deemed personal property, and go by succession to executors and administrators.

IV. Be it further enacted, That the stockholders shall annually in said county elect a president and three directors from their own body, who shall appoint the other officers of said company and make rules and regulations for the management of the affairs of said company, and in all general meetings of stockholders, who may appear by proxy, the stockholders shall vote in proportion to the shares of stock they may respectively own.

V. Be it further enacted, That any legal process against said corporation may be served on the president thereof, or in case of his absence from the State service of the same on any director, or if there be no director in the State, then service on any stockholder, shall be sufficient, and the property of said corporation shall be liable to the satisfaction of the debts of said corporation, by execution, attachment or other equitable process.

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

CHAPTER XCVI.

AN ACT to incorporate the Hope Gold Mining Company, in the county of Mecklenburg.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That a Gold Mining Company, shall be established in the county of Mecklenburg, in the State aforesaid, by the name and style of the Hope Gold Mining Company, with a capital of one hundred thousand dollars, to be divided into shares of one hundred dollars each, making in the whole one thousand shares.

II. And be it further enacted, That John Delafield, Joseph Moss, A. A. Melley, E. N. Gregory, Silas M. Stilwell, H. F. Talmadge, Thomas J. Caew, Jas. N. Hyde, Conklin Brush, William Davidson, John Williams and John Stearns, shall be the first directors of the said company, and they, and their successors and assigns, shall be, and they are hereby declared to be incorporated into a company by the name and style of the Hope Gold Mining Company, and by that name, may sue and be sued, implead and be impleaded, before any court, or Justice of the peace, and shall so continue for the term of thirty years, from the ratification of this act, and shall be capable in law, to have, purchase, receive, possess, enjoy and retain, to them and their successors, lands, tenements, hereditaments, goods, chattels and effects, of whatsoever kind, nature and quality; and the same to sell, grant, demise, alien, or dispose of; and shall possess all the rights and privileges of a corporation, or a body politic in law, and also, may make, have and use a common seal, and the same, break, alter and renew at their pleasure, and may make and ordain all such bye laws, rules and regulations, not inconsistent with the constitution and laws of the State, as shall be necessary for the well ordering and conducting the affairs of the company.

III. And be it further enacted, That within six months after the ratification of this act, it shall be lawful for the directors of said company to subscribe for the whole amount of the before mentioned capital, and when they have paid, or have secured to be paid by good and sufficient securities fifty thousand dollars, certificates of stock shall be issued; and the directors of said company, may require the balance of said capital, to be paid from time to time, in such instalments, as they may deem necessary, for the purpose of prosecuting the business of the company, and any person failing to pay the instalments called for, after thirty days notice shall have been given in one or more of the newspapers published in the aforesaid county, shall forfeit to the stockholders all dividends, that may be declared from time to time until the instalments are paid.

And be it further enacted, That when the aforesaid sum of fifty thousand dollars shall have been paid, or secured as aforesaid, it shall be lawful for the said corporation to commence business.

V. And be it further enacted, That the before mentioned directors shall as soon as may be, after the passing of this act, and the directors hereafter to be chosen at every annual election, as soon as may be after such election, proceed to choose one of their number as president, who shall preside until the next annual election; and in case of death, resignation, or inability to serve, of the president, or any director, such vacancy or vacancies may be filled by the board of directors, and the said president and directors shall hold their office until others are regularly chosen to fill their places.

VI. And be it further enacted, that the stockholders of said company shall meet once in each and every year, at some convenient place, as a majority of the directors shall appoint, of which public notice shall be given in one or more of the newspapers printed in the county of Mecklenburg at least ten days previous to such meeting, which shall be held on the second Monday in November, commencing in the year of our Lord, eighteen hundred and thirty-six, and then elect by ballot, by a plurality of stockholders present, allowing one vote for each share, as high as five shares, and one for every five shares above five to twenty-five shares, and one share for every ten shares above twenty five shares, and the stockholders not there may vote by proxy; seven directors to fill the places of those who were elected, or have served the year previous.

VII. And be it further enacted, That the president and directors of said company may elect suitable officers, and fix their salaries, to assist in managing the concerns of the said company, and take bonds from them for the faithful performance of their duty while in office, and make all necessary bye laws, rules and regulations for the government of said company, and shall have power to do all other acts necessary to be done to carry into effect the objects of this act.

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

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

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

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

XII. And be it further enacted, That the said corporation shall apply their capital to mining only; and all its forms and privileges are granted, and to be exercised for the purpose of mining, and the said corporation is hereby declared incapable in law, to carry on any operations of banking, or to direct its funds to any other purpose than mining

XIII. And be it further enacted, That the property of the aforesaid corporation of whatsoever kind or nature, whether negroes, machinery, stock, goods or effects, shall be liable to the satisfaction of the debts of said corporation, and shall be subject to be levied on by execution, attachment, or other legal process, and sold.

CHAPTER XCVII.

AN ACT to incorporate the Deep River Gold Mining Company.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That there shall be established in the county of Guilford, a mining company by the name and style of the Deep River Gold Mining Company, with a capital of two hundred thousand dollars, divided into shares of one hundred dollars each; that Roswell A. King, Nathan Bunker, Alexander Gray, Christopher Moreing, George B. King, and such other persons as they may associate with them; are hereby appointed commissioners, and are authorized at such time and places, as they or a majority of them may deem proper, after ten days public advertisement of the same, to open

books for the purpose of receiving subscriptions for shares of stock in said corporation, and that the said commissioners are hereby authorized to receive in payment, or part payment of stock subscribed any mining property at such valuation, as they may deem just and reasonable, and that upon, and at the time of subscribing, the sum of five dollars on each and every share, shall be paid to the said commissioners.

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

III. Be it further enacted, That the president and directors, shall have power to call in from time to time, as they may deem expedient by instalments, the whole or any part of the capital stock subscribed as aforesaid, and in case of the refusal or failure to comply with such requisition by any subscriber, the stock of such subscriber together with the sum or sums theretofore paid by him, shall be forfeited to the company, and the said capital shall be considered as personal property, and shall be assignable and transferable under such rules and regulations as shall be prescribed by the bye laws of said company.

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

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

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

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

CHAPTER XCVIII.

AN ACT to incorporate the South Buffaloe Gold Mining Company

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That there shall be established in this State, a mining company by the name and style of the South Buffaloe gold mining company, the capital stock whereof, shall be two hundred thousand dollars, divided into shares of one hundred dollars each

II. Be it further enacted, That the said company, and the subscribers thereto, their successors and assigns shall be, and are created and made a corporation and body politic in law and in fact, by the name and style of the South Buffaloe Gold mining company, and shall so continue for fifty years, and by the name and style aforesaid, they shall be, and are hereby made able and capable in law to have, purchase, receive, possess, enjoy and retain to themselves, their successors and assigns, lands rents, tenements, hereditaments, goods, chattles and effects and the same to sell grant, demise alien or dispose of, to sue and be sued, implead and be impleaded, answer and be answered, defend and be defended in courts of record or any other place, and also to make, have and use, a common seal, and the same to break, alter and renew at pleasure, and also to ordain, establish and put in execution such bye-laws, ordinances and regulations, as shall seem necessary and convenient for the government of said corporation, not being contrary to the laws of this State, or of the United States, and for the making whereof, full power and authority is hereby given to the president and directors of said corporation, and generally to do and execute all acts, matters and things, which a body politic, or corporation in law, may or can lawfully do or execute.

III. Be it further enacted, That Dr. David Worth, Abel Gardner, and such persons as they may associate with them, are hereby appointed commissioners and authorised, at such time and place as they, or a majority of them may deem proper, to open books for the purpose of receiving subscriptions for shares of stock in said corporation, and that the said commissioners are hereby authorised to receive in payment, or part payment of stock subscribed, any lands, leases, mines and mining property at such price or valuation as they may deem just and reasonable, and that upon and at the time of subscribing, the sum of five dollars on each, and every share shall be paid to the said commissioners.

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

V. Be it further enacted, That the president and directors shall have power to call in from time to time, as they may deem expedient by instalments, the whole or any part of the capital stock subscribed, as aforesaid; and in case of failure or refusal to comply with such requisition, the delinquent stockholders shall be subject to such rules and regulations, as shall be established by the bye laws of said corporation, and the capital stock of said company shall be considered personal property, and shall be assignable and transferable under such rules and regulations, as shall be prescribed by the bye laws of said corporation.

VI. Be it further enacted, That as soon as the sum of twenty thousand dollars shall be paid in, the said stockholders, their successors and assigns shall become a body politic and a corporation under the name and style aforesaid, and shall thenceforth fifty years aforesaid.

VII. Be it further enacted, The the stockholders shall meet annually at such time and place as the president and directors shall deem most convenient for the stockholders, for the purpose of electing five directors, which directors shall appoint one of their own number president, who with the other directors shall appoint the other officers of the said corporation, and make rules, regulations and bye-laws for the same.

VIII Be it further enacted, That the stockholders, or so many of them as may hold or represent one-third of the stock may at any time call a general meeting of

the stockholders and at such meeting a majority of the stock being represented may remove all officers and directors of the company, and appoint others in their stead, and generally do, and perform whatever may be done and performed at the annual meeting of the stockholders.

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

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

XI. Be it further enacted, That this act shall go into operation from and after the passage thereof.

CHAPTER XCIX.

AN ACT to incorporate Campbell's Creek Gold Mining Company.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That there shall be established in the county of Mecklenburg, a mining company by the name and style of the Campbell's Creek Gold Mining Company, with a capital of two hundred and fifty thousand dollars, divided into shares of one hundred dollars each, that Joseph Smith, William J Alexander, John D Smith, J. T J. Orr, Joseph D. Boyd, and Columbus E. Wallace, and such other persons as they may associate with them, are hereby appointed commissioners, and are authorized at such time and place as they or a majority of them may deem proper, after ten days public advertisement of the same, to open books for the purpose of receiving subscriptions for shares of stock in said corporation, and that the said commissioners are hereby authorised to receive in payment or part payment of stock subscribed, any mining property at such valuation as they may deem just and reasonable, and that upon and at the time of subscribing the sum of five dollars on each and every share, shall be paid to the said commissioners.

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

III. Be it further enacted, That the president and directors shall have power to call in from time to time as they may deem expedient by instalments, the whole or any part of the capital stock subscribed aforesaid, and in case of the refusal or failure to comply with such requisition by any subscriber, the stock of such subscriber together with the sum or sums theretofore paid by him, shall be forfeited to the company, and the said capital stock shall be considered as personal property, and shall be assignable and transferable under such rules and regulations as shall be prescribed by the bye-laws of said company.

IV. Be it further enacted, That when the sum of twenty-five thousand dollars shall have been paid in and not before, the stockholders, their successors and assigns are hereby declared to be incorporated by the name and style of Campbell's Creek Gold Mining Company, and shall continue to exist as such for the period of twenty-five years, and may sue and be sued, plead and be impleaded, possess and

enjoy all the rights and privileges of a corporation or body, politic, and also to make, have and use a common seal, and the same to break, alter and renew at pleasure: Provided, that the business of the company shall be confined to the purposes of mining.

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

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

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

CHAPTER C.

AN ACT to incorporate the American Gold Mining Company in Mecklenburg County North Carolina.

Be it enacted by the General Assembly of the State of North Caroina, and it is hereby enacted by the authority of the same, That a Gold Mining Company shall be established in the County of Mecklenburg State aforesaid by the name and style of the American Gold Mining Company, with a capital of not less than one hundred thousand dollars nor more than one hundred and fifty thousand dollars, to be divided into one thousand shares of one hundred dollars each, or fifteen hundred shares of one hundred each, as the case may be.

II. Be it further enacted, That James N Hyde, Edward N. Gregory, Conklin Brush, Henry Thomas, Jr.. F. Melly, William E. Randall, and John Harris, shall be the first Directors of the said company. and that they and their successors and assigns shall be and they are hereby declared to be incorporated into a company by the name and style of the American Gold Mining Company, and by that name may sue and be sued implead and be impleaded before any court or justice of the peace, and shall so continue for the term of thirty years from the ratification of this act, and shall be capable in law to have, purchase, receive, possess, enjoy and retain to them and their successors lands, tenements, hereditaments, goods, chattles, or effects, of whatsoever kind, nature and quality, and the same to sell, grant, demise, or dispose of; shall possess all the rights and privileges of a corporation or body politic in law, and also may make have and use a common seal and the same break alter and renew at their pleasure; and may make and ordain all such bye laws, rules and regulations as are not inconsistent with the constitution and laws of the state as shall be necessary for the well ordering and conducting the affairs of the Company.

III. And be it further enacted, That it shall be lawful for the Directors of said company to subscribe for the whole amount of the before mentioned capital within sixty days after the ratification of this act, for which certificates of stock shall be issued; and when twenty five thousand dollars shall have been paid, it shall be lawful for the said corporation to commence business. The Directors may require the balance of said capital to be paid from time to time in such instalments as they may deem necessary for the purpose of prosecuting the business of the company, and any stockholder failing to pay the instalments called for after thirty days notice shall have been given in one or more news papers published in the

aforesaid county, shall forfeit to the other stockholders all that has been paid, and the stock may be sold for the benefit of the company.

IV. Be it further enacted, That the before mentioned Directors shall as soon as may be after the passing of this act, and the Directors hereafter to be chosen at every annual election, proceed to choose one of their number as President, and in case of death, resignation, or inability to serve of the President or any Director, such vacancy or vacancies may be filled by the board of Directors and the said President and Directors shall hold their offices until others are regularly chosen in their places.

V. Be it further enacted, That it shall be the duty of the stockholders of said company to meet once in each and every year, at some convenient place in the country of Mecklenburg as a majority of the directors shall appoint, of which public notice shall be given in one or more newspapers printed in the aforesaid county at least ten days previous to such meeting, which shall be held on the second monday in November, commencing in the year of our Lord, one thousand eight hundred and thirty-six, and then elect by ballot by allowing one vote for each share any stockholder may have standing in his name, as high as five shares, and one vote for every five shares as high as thirty shares, and one vote for every ten shares above thirty shares, and the stockholders not there may vote by proxy.

VI. Be it further enacted, That the President and directors of said Company, may elect suitable officers, and fix their salaries, to assist in managing the concerns of said company, and take bonds from them for the faithful performance of their duty, while in office, and make all necessary bye laws, rules and regulations for the government of said company, and shall have power to do all other acts necessary to be done to carry into effect the object of this act.

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

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

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

X. And be it further enacted, That the said corporation shall apply their capital to mining operations, and it is hereby declared incapable in law to carry on any operations of Banking.

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

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

CHAPTER CI.

AN ACT to incorporate the Claremount Gold Mining Company in the county of Mecklenburg.

Be it enacted by the General Assembly of the State of North Carolina and it is hereby enacted by the authority of the same, That a Gold Mining Company shall be established in the county of Mecklenburg, State of North Carolina, by the name and style of the Claremount Gold Mining Company, with a capital of one hundred and fifty thousand dollars, in shares of one hundred dollars each;

and that John Penniman and his associates and all those who shall hereafter become his associates, are hereby appointed commissioners, and are authorised at such times and places as they may deem expedient, after ten days public advertisement of the same, to open books for the purpose of receiving subscriptions for shares of stock in said company.

II. Be it further enacted, That when the sum of twenty five thousand dollars shall have been subscribed, the subscribers, their successors and assigns, are hereby declared to be incorporated by the name and style of "the Claremount Gold Mining Company;" and shall so continue to b for twenty five years; and as such, may sue and be sued, plead and be impleaded, and shall have power to make all bye laws and regulations not inconsistent with the laws of the state, which may be necessary to the well ordering and conducting of the affairs of the said company; and possess and enjoy all the privileges and rights of a corporation or body politic: Provided that the business of the said company shall be confined to the purpose of mining only.

III. Be it further enacted, That the said commissioners are hereby authorised to receive in payment of stock subscribed, any mining property, at such valuation as they may deem just and reasonable; and it is hereby further declared, that the stock of said company shall be held and deemed personal property.

IV. Be it further enacted, that the stockholders shall annually, in said county, elect a president and three directors from their own body, who shall appoint the other officers of said company; and make rules and regulations for the management of the affairs of said company; and in all general meetings of the stockholders, (who may appear by proxy) the stockholders in proportion to the shares of stock they may respectively own.

V. Be it further enacted, that any legal process against said corporation, may be served on the president thereof, or in case of his absence from the state, service of the same on a director, or if there be no director in the state, then service on any stockholder shall be sufficient: and the property of said corporation shall be liable to the satisfaction of the debts of said corporation, by execution, attachment, or other equitable process.

CHAPTER CII.

AN ACT to repeal an act, entitled an act to make compensation to the Jurors of the Superior Court of Haywood county.

Be it enacted by the General Assembly of the State of North Carolina and it is hereby enacted by the authority of the same, That an act passed in the year one thousand eight hundred and thirty three, chapter thirty nine, entitled an act to make compensation to the jurors of the superior court for Haywood county, be, and the same is hereby repealed

CHAPTER CIII.

AN ACT making compensation to the tales Jurors in the county of Randolph.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That from and after the passage of this act, a majority of the acting justices of said county being present, may pass an order directing the clerks of the superior and county courts to issue a certificate to tales jurors who shall be summoned to attend either the county or superior courts of Randolph, and who shall have served one entire day, or so long as the court is in session during that day, shall for such service receive the same per diem compensation as the jurors of the original venire in said county now receive, (mileage and ferriage excepted:) and the clerk of the court to which such tales jurors shall be summoned, shall, on application of the said tales juror, grant him a certificate in the manner now prescribed by law, which certificate shall be paid by the county trustee out of the funds belonging to

said county: Provided always, that this act shall not extend to those that are bound to attend court as witnesses or suitors.

CHAPTER CIV.

AN ACT directing the number of Jurors hereafter to be drawn in the county of Chatham.

Be it enacted by the General Assembly of the State of North Carolina and it is hereby enacted by the authority of the same, That hereafter it shall be the duty of the justices of the courts of pleas and quarter sessions of the county of Chatham, to draw forty-seven jurors to attend the superior courts, and forty-two jurors to attend the courts of pleas and quarter sessions of said county, under the same rules and regulations as jurors are now drawn.

CHAPTER CV.

AN ACT making compensation to the Jurors of the county of Pasquotank.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That in future, each and every juror who shall be appointed and summoned, and shall attend the county and superior courts of Pasquotank county, shall be allowed the sum of seventy-five cents for each and every day's attendance, and the sum of two cents per mile for each mile he may travel to and from said courts.

Be it further enacted, That the county court aforesaid, a majority of the justices being present, shall and they are hereby authorized and required to lay from year to year, a tax sufficient on all polls, and other taxable property in said county, to pay the jurors aforesaid, and that each juror shall obtain his certificate from the clerk, and receive his pay from the sheriff.

CHAPTER CVI.

AN ACT making compensation to Tales Jurors in the county of Robeson.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That from and after the passage of this act, a maiority of the acting justices of said county being present, they may pass an order directing the clerks of the superior and county courts to issue a certificate to tales jurors, who shall be summoned to attend either the county or superior courts of Robeson, and who shall have served one entire day, or so long as the court is in session during that day, shall for such service, receive the same per diem compensation, as the jurors of the original venire in said county now receive (mileage and ferriage excepted) and the clerk of the court to which such tales jurors shall be summoned, shall on application of the said tales jurors, grant him a certificate in the manner now prescribed by law, which certificate shall be paid by the county trustee, out of the funds belonging to said county; provided always, that this act shall not extend to those that are bound to attend court as witnesses or suitors.

CHAPTER CVII.

AN ACT to amend an act, entitled an act making compensation to Jurors of the county of Chowan, passed in the year one thousand eight hundred and thirty-four.

Be it enacted by the General Assembly of the State of North Carolina and it is hereby enacted by the authority of the same, That in future it shall be lawful that the county court of Chowan county, as is heretofore provided in the above recited act, to lay a tax both on the poll, town property and land, in addition to the tax already provided for by said act, sufficient to take up all jury tickets issued for said county.

CHAPTER CVIII.

AN ACT to pay Jurors in Yancy county.

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

shall be appointed and summoned, and shall attend the county and superior courts of Yancy county, shall be allowed the sum of seventy-five cents, for each and every day's attendance, and two cents per mile travelling to and from said courts.

Be it further enacted, That the sheriff shall be bound to receive all juror tickets issued for said county in payment of county taxes.

CHAPTER CIX

AN ACT to amend an act, entitled an act for the better administration of Justice in the county of Onslow, and for other purposes,

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That from and after the passage of this act, the sheriff of Onslow county shall receive all jury tickets granted since the year one thousand eight hundred and thirty-four, in payment of county taxes.

Be it further enacted, that if the clerks either of the county or superior courts or clerk and master in equity, shall refuse or neglect to settle with the said sheriff agreeably to the act passed in the year one thousand eight hundred and thirty-four, then the said sheriff may enforce the fines and penalties against said delinquent officers as the said act has made and provided.

CHAPTER CX.

AN ACT to repeal the second section of an act passed in the year one thousand eight hundred and thirty-one, entitled an act passed in the year one thousand eight hundred and twenty-nine, entitled an act to compel the trustees of Moore, Chowan and Robeson counties, to pay the jurors in preference to other claims, so far as respects the county of Moore.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That from and after the passing of this act, the second section of the above recited act, be and the same is hereby repealed.

CHAPTER CXI.

AN ACT authorizing and requiring the captains or commanding officers of militia, attached to the thirteenth, thirty-first, and forty-ninth regiments of the North Carolina militia, to muster their respective companies once in three months.

Be it enacted by the General Assembly of the State of North Carolina and it is hereby enacted by the authority of the same, That every captain or commanding officer of a company, attached to the thirteenth, thirty-first, and forty-ninth regiments of North Carolina militia; and of the militia of Mecklenburg, Cabarrus and Rowan counties, shall, at least once in every three months, muster, train, and exercise his company, under the same rules, regulations, and restrictions, as are already provided by the existing acts.

II. Be it further enacted, That all laws and clauses of laws, coming within the meaning and purview of this act, shall be, and the same are hereby repealed; and that this act shall be in force from and after the ratification thereof.

CHAPTER CXII.

AN ACT to repeal an act passed in the year one thousand eight hundred and twenty-nine, entitled an act concerning the first regiment of militia of Stokes county, and for other purposes.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That the before recited act be, and the same is hereby repealed.

II. And be it further enacted, That the officers of the first regiment of militia of Stokes county, be, and they are hereby authorised and empowered to hold their regimental musters at or near Alexander Hampton's Forge, or at such other place, within the bounds of the regiment, as a majority of the officers, of said regiment, shall or may, from time to time, select and appoint.

CHAPTER CXIII.

AN ACT relating to the cavalry of Macon county.

Be it enacted by the General Assembly of the State of North Carolina and it is hereby enacted by the authority of the same, That from and after the passage of this act, all that part of the troopers belonging to captain Jarretts company of cavalry, in the county of Macon, who live west of the Nantahala river, be, and they are hereby released from mustering under the said captain; any law or usage to the contrary notwithstanding.

CHAPTER CXIV.

AN ACT to amend the militia law, for the encouragement of volunteer companies, in the county of Mecklenburg

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That when any militia company of any district, in the county of Mecklenburg, shall be reduced by the formation of volunteer companies or otherwise, below the number of forty men, exclusive of officers, it shall be lawful for the Col. Commandant, to attach the remainder of said militia company, to the nearest militia captain's district, whose duty it shall be, to cause them to be enrolled on his muster list, and perform the duties by law required, and the commissions of officers thus reduced, shall be declared to be void; any law or custom to the contrary notwithstanding.

CHAPTER CXV.

AN ACT to legitimate John Willoughby and Ann Willoughby, of the county of Bertie.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That from and after the passage of this act, John Willoughby and Ann Willoughby, illegitimate children of Powell Harrell, and Celia Willoughby, of the county of Bertie, are hereby declared legitimated; and that they shall be known and called by the names of John Harrell and Ann Harrell; and by those names, may sue and be sued, plead and be impleaded, and receive and take property by descent or distribution.

CHAPTER CXVI.

AN ACT to alter the name of Martha Ann Screws, and to legitimate her.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That the name of Martha Ann Screws, daughter of Drewry Taylor of Nash county, shall be, and the same is hereby altered to that of Martha Ann Taylor; and by that name she is hereby legitimated, and entitled to inherit, from her said father, Drewry Taylor, by descent and distribution, as fully and effectually, as if she had been in lawful wedlock: any thing to the contrary notwithstanding.

CHAPTER CXVII.

AN Act to alter the name of John Pettis Johnson of Warren county, and to legitimate him.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That John Pettis Johnson, of the county of Warren, the illegitimate son of John Gardner, shall hereafter be known and distinguished by the name of John Pettis Gardner; and by that name, shall be capable to sue and be sued, plead and be impleaded in any court within this State; and by that name, shall be legitimated, and made heir at law to the said John Gardner, capable to take, inherit, possess and enjoy, any estate real or personal, which may be devised, or descend to him from the said John Gardner, in as full and ample a manner, to all intents and purposes, as if the said John had been born in lawful wedlock: any law to the contrary notwithstanding.

CHAPTER CXVIII.

AN ACT to alter the name of Amy Boyd, and to legitimate her.

Be it enacted by the General Assembly of the State of North Carolina and it is hereby enacted by the authority of the same, That Amy Boyd, an illegitimate daughter of Fanny Boyd and Hosea Buck, of the county of Pitt, shall hereafter be known and called by the name of Amy Buck, and by that name, shall sue and be sued, plead and be impleaded, and receive property by descent or distribution, from her farther Hosea Buck, in as full and ample manner, as though she had been born in lawful wedlock: any law, usage, or custom, to the contrary notwithstanding.

CHAPTER CIX.

AN ACT to alter the name of Haywood Waterer, and to legitimate him.

Be it enacted by the General Assembly of the State of North Carolina and it is hereby enacted by the authority of the same, That Haywood Waterer, an illegitimate child of Mary Waterer and Nathan Waters, of the county of Lenoir, shall hereafter be known and called by the name of Haywood Waters; and by that name, shall sue and be sued, plead and be impleaded, and receive and inherit property by descent, distribution, or otherwise, in as full and ample manner, from his father Nathaniel Waters, as though he had been born in lawful wedlock: any law, usage, or custom, to the contrary notwithstanding.

CHAPTER CXX.

AN ACT to alter the name of, and to legitimate William W. Eason, of the county of Edgecombe.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That William W Eason, an illegitimate son of Rhoderick Amason and Nancy Eason, of the county of Edgecombe, shall hereafter be known by the name of William W. Amason; and by that name, shall sue and be sued, plead and be impleaded; and is hereby declared legitimated, and made capable to inherit property from his said father Rhoderick Amason, by descent or otherwise, in as full and ample a manner, as if he had been born in lawful wedlock: any thing to the contrary notwithstanding.

CHAPTER CXXI.

AN ACT to alter the name of Quinton Robertson of the county of Gates, and to legitimate him.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That from and after the passage of this act, Quinton Robertson, of the county of Gates, an illegitimate son of Thomas Rountree and Absalo Robertson, shall hereafter be known and called by the name of Quinton Rountree; and by that name, shall sue and be sued, plead and be impleaded, and receive and take property by descent or distribution, from his father Thomas Rountree, in as full and ample manner, as though he had been born in lawful wedlock: any law to the contrary notwithstanding.

CHAPTER CXXII.

AN ACT to alter the name of James Atlas Marks, and to legitimate him.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That the name of James Atlas Marks of Chatham county, shall be, and the same is hereby altered to that of James Atlas Harman; and by that name, he is hereby legitimated, and entitled to inherit, from his farther John Harman, by descent or distribution, as fully and effectually, as if he had been born in lawful wedlock: any thing, in any law, to the contrary notwithstanding.

CHAPTER CXXIII.

AN ACT to alter the name of Simon Davis, and to legitimate him.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That from and after the passage of this act, Simon Davis, commonly styled Simon Gentry, an illegitimate son of Shadrick Gentry of Person county, by his late wife, be, and he is hereby legitimated, by the name of Simon Gentry; and by that name, shall sue and be sued, plead and be impleaded, and shall be capable of taking property by descent from his father, in as full and ample a manner, as though he was born in lawful wedlock.

CHAPTER CXXIV.

AN ACT to legitimate Thomas Petit of Surry county

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That from and after the passage of this act, Thomas Petit of Surry county, is hereby declared legitimate; and that he shall be known and called by the name of Thomas Petit Stul; and by that name, may sue and be sued, plead and be impleaded, and receive and take property by descent or distribution from his father.

CHAPTER CXXV.

AN ACT to alter the name of Hardy Lewis and Brittain Lewis, of the county of Moore, and to legitimate them.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That Hardy Lewis and Brittain Lewis, of the county of Moore, illegitimate sons of Jesse Sanders, shall hereafter be known and distinguished by the names of Hardy Sanders and Brittain L. Sanders; and by that name, shall be capable to sue and be sued, plead and be impleaded in any court within this State; and by those names, shall be legitimated and made heirs at law, to the said Jesse Sanders, capable to take, inherit, possess and enjoy, any estate real and personal, which may be devised or descend to them from the said Jesse Sanders, in as full and ample a manner, to all intents and purposes, as if the said Hardy and Brittain had been born in lawful wedlock: any law to the contrary notwithstanding.

CHAPTER CXXVI.

AN ACT for the better regulation of the town of Newbern.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That the town of Newbern in this state shall hereafter consist of five wards; the first shall begin at the south east corner of the court house in said town, and run thence northwardly along the east side of middle street to Trent river, thence down said river, to Neuse river, at union point; thence up Neuse river to the south side of broad street; thence up the south side of broad street to the beginning; and shall be styled the "first ward." The second shall begin at the north-east corner of the court house and run thence eastwardly along broad street, to Neuse river; thence up Neuse river to queen street; thence along queen street to its north-east intersection with Graves street; thence along the east side of Graves street to its junction with middle street; thence along the east side of middle street to the beginning; and shall be styled the "second ward." The third shall begin at the south-west corner of the court house, and run thence southwardly along the west side of middle street to Trent river; thence up the river to George street; thence along the east side of George street, to broad street; thence along the south side of broad street to the beginning; and shall be styled the "third ward." The fourth shall begin at the north-west corner of the court house, and run thence westwardly along the north side of broad street to George street; thence along the last side of

George street to queen street; thence along queen street to Graves street, and along the west side of Graves street to middle street, and along the west side of middle street to the beginning; and shall be styled the "fourth ward." And the fifth shall embrace within its limits all that part of said town lying west of George street, and not included within either of the wards above described; and shall be styled the "fifth ward."

II. Be it further enacted by the authority aforesaid, That one commissioner for said town of Newbern shall be elected from each of the wards above set forth, by the inhabitants thereof, who shall have been a resident of such ward for three months next preceding the election, and in other respects eligible to be a commissioner according to the laws now in force; and each inhabitant of said town, now entitled by law to vote in the election of commissioners, shall be entitled under this act to vote for the commissioners to be elected for the ward in which said voter resides, and for no other.

III. Be it further enacted by the authority aforesaid, That the sheriff of the county of Craven, in holding the annual election for said commissioners, shall provide a box with five apartments, designated by the names of the wards, in which shall be deposited, respectively, the ballots of the inhabitants of said wards; and the commissioners thus elected, shall be subject to the same penalties and restrictions, and vested with the same powers, privileges, and exemptions, as the commissioners of said town now are.

IV. Be it further enacted by the authority aforesaid, That the persons who may from time to time be employed by the commissioners of said town to compose the night watch, be, and they are hereby clothed with the jurisdictional limits of the same, and subject to the same penalties, as constables of the county of Craven are or may be: provided that this enactment shall not be construed into an authority to said persons to execute civil process in any case.

V. Be it further enacted, That the said commissioners of Newbern shall have power to lay, levy and collect a tax, not exceeding one dollar on the poll, upon all the female slaves residing within the limits of said town, between the ages of twelve and forty five; and it shall be the duty of each and every inhabitant of said town, owning any such slave or slaves, to render a list of the same, under the same rules that are now required to be observed in rendering a list of taxable male slaves.

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

CHAPTER CXXVII

AN ACT for the better regulation of the slave labourers in the town and Port of Wilmington.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same. That it shall be lawful for the commissioners of the town of Wilmington, on the application of the owner or owners of slaves, to grant a badge, or license, to such slaves, as they may deem expedient, to work out and carry on the labour of said town and port, which badge or license shall entitle such slave or slaves to work and labor in said town and port, under the restrictions hereinafter provided, without being subject to any penalty therefor.

Be it further enacted, That the commissioners of said town, shall be entitled to impose on all slaves, who may apply for badges, such tax as they may deem expedient, not exceeding ten dollars for any one slave; which tax shall be applied to the use and benefit of the said town.

III. Be it further enacted, That if any slave shall hereafter be permitted to go at large, and make his own contracts to work, and labour in said town, by consent, and with the knowledge of his or her owner or master, the owner of

the said slave shall forfeit and pay one hundred dollars to be recovered by the commissioners of said town, for the use of said town; and if any slave shall hereafter be found going at large and working out in said town or port, in violation of the intention of this act, he shall be arrested and carried before the commissioners of said town, or the town magistrate, and on proof of his guilt being made to the satisfaction of said commissioners or town magistrate, the said slave shall receive such punishment as said commissioners or town magistrate shall think proper to direct to be inflicted, not exceeding twenty five lashes.

IV. Be it further enacted, That it shall be the duty of the commissioners of said town, to require the person whom they may appoint as aforesaid, before entering on his duties, to enter into bond with good and sufficient security, in the sum of one thousand dollars, payable to said commissioners and their successors, for the faithful discharge of his duty, and for the payment of such monies as he may receive, to whomsoever the same may be due, which bond may be sued or warranted on, to the use of the person aggrieved; and no recovery on said bond shall prevent another suit or warrant on the same, but the same may be sued on as often as injury may arise, until the whole sum shall be recovered.

VI. Be it further enacted, That the commissioners may at all times pass such bye laws, and make such rules, establishing the duties and compensation of the person who may be appointed for the purpose aforesaid, and for the regulation of the slave laborers of said town, as they may deem necessary and expedient; provided such bye-laws and rules be not inconsistent with laws of the State.

VII Be it further enacted, That all acts and clauses of acts, coming within the meaning and purview of this act, be, and the same are hereby repealed and made void.

CHAPTER CXXVIII.

AN ACT to amend an act passed in the year one thousand eight hundred and thirty, for the better regulation of the town of Williamston.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That so much of said act as requires the town constable to be governed by the provisions of the existing laws of this State for the collection of taxes assessed by the commissioners of said town on the real estate in the same, be and the same is hereby repealed.

Be it further enacted, That if the owners of real estate in said town be unknown, or shall fail to pay the taxes assessed according to the provisions of said act, for six months after the same shall become due, it shall and may be lawful for the town constable to advertise the same in some newspaper, and in three public places in said town for thirty days, reciting therein the different lots and parts of lots and the amount of taxes due thereon, and at the expiration thereof to sell such real estate, upon which taxes are due and unpaid as aforesaid, for the highest price that it will bring, and it shall be his duty to file in the county court clerks office of Martin county, within twenty days thereafter, an account of the sale of all lots or parts of lots sold as aforesaid, with the names of the different purchasers, and with the same to deposit therein the surplus in his hands after paying the taxes due, cost of advertising; and it shall be the duty of the clerk of said court to receive it, and he shall be liable therefor as other monies received by virtue of his office.

III. Be it further enacted, That the owner or owners of real estate, sold as aforesaid, in the said town of Williamston, shall be allowed six months from said sale to redeem the same by paying the taxes due and costs of advertising, and also the purchaser or purchasers the sum advanced by him her or them, with the addition of twenty-five per cent., and upon so doing, shall be permitted to receive from the clerk of said court upon filing with him receipts from the purchaser or purchasers, and the town constable the sum or sums so deposited by the town constable as paid by such purchaser or purchasers; but should the owner or own-

ers fail to comply as aforesaid, then it shall be the duty of the town constable or his successor in office, to execute and deliver to such purchaser or purchasers a deed for said real estate, which shall rest in him her or them, an absolute estate in fee simple; and it shall be the duty of the clerk of said court thereafter to pay to the treasurer of said town, all such sums deposited in his office as aforesaid after the deduction of six per cent. commission, which shall be for the use of said town.

IV. Be it further enacted, that this act shall be in force from and after the passage thereof.

CHAPTER CXXIX.

AN ACT to authorize the Commissioners of the town of Wilmington, to increase the taxes on all the property now taxed by law of said town.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That the commissioners of the town of Wilmington, be, and they are hereby authorized to increase the taxes on all the property of said town now taxed by law, not exceeding one hundred per cent., to be levied, collected and accounted for as heretofore provided for by law.

CHAPTER CXXX.

AN ACT to amend an act passed in the year one thousand eight hundred and twenty-nine, entitled an act for the better regulation of the town of Washington.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That the commissioners of said town, in the county of Beaufort, be, and the same are hereby constituted a body politic with the name and title of the commissioners of the town of Washington, and under that name may sue and be sued, plead and be impleaded, warrant and be warranted, in all matters touching their duties as commissioners of said town.

CHAPTER CXXXI.

AN ACT to repeal sundry acts heretofore passed for the better regulation of the town of Greensboro in Guilford county.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That the act passed in the year one thousand eight hundred and twenty-four, entitled an act for the better regulation of Greensborough in Guilford county; and the act passed in the year one thousand eight hundred and twenty-six, entitled an act supplemental to an act passed in one thousand eight hundred and twenty-four, entitled an act for the better regulation of the town of Greensborough in Guilford county; also an act passed in the year one thousand eight hundred and twenty-eight, entitled an act supplementary to an act passed in the year one thousand eight hundred and twenty-six, chapter one hundred and twenty three, for the better regulation of the town of Greensborough in Guilford county, are hereby repealed and made void.

CHAPTER CXXXII.

AN ACT to repeal an act, entitled an act concerning the town of Ashville in Buncombe county, passed in the year one thousand eight hundred and thirty-two.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That the above recited act, be, and the same is hereby repealed.

CHAPTER CXXXIII.

AN ACT to amend an act, entitled an act to incorporate the town of Stantonsburg, in the county of Edgecombe.

Whereas, the commissioners appointed for the government of the town in the above recited act, have removed from the limits of the said corporation. Therefore,

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That Isaac W. Horn, William Stewart, Thoms Burt, John Horn, Dr. John R. Dering, Dr William Barnes, Nathan P. Daniel, and Andrew E Gill, be appointed commissioners for the government of the said town of Stantonsburg, and they shall have the same powers, and be under the same restrictions, in every respect as the commissioners of the said town of Stantonsburg heretofore appointed under the above recited act.

CHAPTER CXXXIV.

AN ACT to amend an act passed in the year eighteen hundred and twenty four, entitled an act to appoint commissioners for the town of Clemonsville in Davidson county.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same. That the commissioners of the town of Clemonsville, or a majority of them, shall have full power and authority from time to time, to fill any vacancy occasioned, in said board of commissioners, by death, resignation or otherwise: and to make all such rules, regulations and laws as may be necessary for the collection of taxes or arrearages of taxes due said corporation.

CHAPTER CXXXV

AN ACT to amend an act passed in the last session, entitled an act to establish the town of Leachville in Beaufort county and to appoint commissioners thereof.

Be it enacted by the General Assembly of the State of North Carolina and it is hereby enacted by the authority of the same. That the names of Thomas J. Latham, and Thomas B. Windfield, be and the same are hereby added to the number of commissioners of the town of Leachville, whose powers and authorities shall be the same, and who shall be subject to the same rules, penalties and duties, and be qualified in the same manner, with the commissioners heretofore appointed in the above recited act.

CHAPTER CXXXVI.

AN ACT amendatory of an act relating to the town of Lawrenceville in Montgomery county.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That so much of the second section of an act passed in 1834, entitled an act for the better government of the town of Lawrenceville in Montgomery county, as requires that no person shall be deemed qualified to act as a magistrate of police except a justice of the peace resident in said town, is hereby repealed, and that hereafter any justice of the peace residing within three miles of said town shall be equally eligible as those residing within its limits: any law to the contrary notwithstanding.

CHAPTER CXXXVII.

AN ACT to secure to the trustees of Baptist Church in the town of Charlotte and their successors in office, the right to hold and possess the lot on which their House of worship is situated

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That Joseph Smith, Stephen Fox, and Joseph P. Pitchard, be, and they are hereby constituted trustees of the Baptist Beulah Church in the county of Mecklenburg and town of Charlotte, known by that name; and that they, and their successors in office, be, and they are hereby made capable in law to hold, possess and enjoy, one lot of land in said town of Charlotte, on which their meeting house is now situated, conveyed to them by deed from William W. Long, John Slaughter, and others commissioners of the said town for the years one thousand eight hundred and thirty two and three, as trustees, for the use and benefit of said Baptist community in and around said town of Charlotte, as a place of religious worship.

II. And be it further enacted, That it shall be lawful for the members of said church to fill, from time to time, such vacancies as may happen in the board of trustees appointed by this act as shall hold the same faith and order of discipline as is now established and recorded on their church book; any law to the contrary notwithstanding.

CHAPTER CXXXVIII.

AN ACT to prevent obstructions in the Navigation of the Waters of Carteret county, and to appoint Commissioners of Navigation in said county.

Whereas, the navigable waters of Carteret county have been greatly injured by throwing ballast, and other trash therein: for remedy whereof,

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same. That if any ballast, or any other substance calculated to injure the navigaton, shall be thrown out of any vessel into any part of the navigable waters of Carteret county, by any sailor, mariner, or any other person whatsoever, the master of the vessel, whence the same shall be thrown, shall forfeit and pay the sum of fifty pounds, to be recovered before any justice of the peace of said county in the name of one or more of the commissioners of navigation and pilotage of said county, one half to the informer, and the other half to be applied in improving the navigation of said waters: Provided always that if either party shall be dissatisfied with the judgment of the justice of the peace, he or they may appeal as in other cases now provided by law; and provided further that no recovery shall be had thereon, unless suit shall be brought within three years, after the time the said offence shall be committed.

II Be it further enacted, That if any branch pilot of the waters of Carteret county in charge of any vessel shall knowingly suffer any kind of ballast or trash to be thrown of said vessel into any part of the navigable waters of Carteret county, and shall not within ten days, after the commission of such offence make information thereof to one or more of the commissioners of navigation of said county, such pilot shall upon conviction in the County or Superior Courts, be fined at the discretion of the court, and be forever rendered incapable of acting as pilot for the said waters, or any part thereof.

And whereas in consequence of the death of William Bell, the removal of James Davis, and the refusal of Solomon Ward to act, three vacancies have occurred in the commissioners of navigation in the county of Carteret; for remedy whereof,

III. Be it further enacted, That John Merrit, Elijah Whitetemst and John C. Mason, be, and they are hereby appointed commissioners in the place, and stead of the said William Bell, James Davis and Solomon Ward, with all the powers and authority incident to the same by law.

IV. Be it further enacted, That upon the death removal or refusal of any of the commissioners of navigation in the county of Carteret, to act, the remaining commissioners of each respective port shall and may choose and appoint another commissioner in the said port, in the room of the commissioner so dying, removing, or refusing to act.

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

CHAPTER CXXXIX.

AN ACT concerning the Navigation of Cypress creek.

Be it further enacted by the General Assembly of North Carolina, and it is hereby enacted by the authority of the same, That Charles Gregory, Jesse A. Gregory, Elijah Muril in Onslow county, and John Jones and Hosea Lawin in Duplin county, or a majority of them, be, and they are hereby appointed commissioners for receiving subscriptions to the amount of one thousand dollars for the purpose of improving the navigation of Cypress creek, a branch of the north east of Cape Fear, and of the several creeks which may run into the same; and that

the said commissioners, or a majority of them shall prepare books, and cause the same to be opened at such places, and under the direction of such persons, as they appoint, and the said books shall be opened on or before the first day of May next, and continue open until the first Monday of August next; at which time the said books shall be returned to the other said commissioners at the place they may designate, and at the same time and place, there shall be a general meeting of the subscribers, either personally or by proxy, and such meeting may be continued from day to day until the business be finished; and if it shall appear that fifty shares have been subscribed, that said subscribers, their heirs and assigns, from the time of the said first meeting shall be, and they are hereby declared to be incorporated into a company by and under the name of "the Cypress creek navigation company," and may sue and be sued as such, plead and be impleaded, defend and be defended, have perpetual succession, and a common seal; and such of the said subscribers as may be present at the said meeting, or a majority of them are hereby empowered and required to elect a president and four directors, for conducting the said undertaking, and managing all the companies, business and concerns for and during the term of one year and thence until the next general meeting of the stockholders; and in counting the votes of all general meetings of said company, each member shall be allowed one vote for every share as far as five shares, and one vote for every three shares above five shares, by him or her held at the time in the said company; and any proprietor by writing under his or her hand, executed before a subscribing witness, and acknowledged or approved before a justice of the peace, may depute any member to act as proxy for him or her at any general meeting or meetings, and the presence and acts of such proxy shall be effectual to all intents and purposes, as the presence or acts of his or her principal could or might be.

II. That the capital stock of the said company shall be divided into shares of five dollars each; and if fifty shares shall not have been subscribed at or before the said first general meeting of stockholders, the said commissioners shall again open books for receiving further subscriptions at such time or times, at such places and under the direction of such persons as they may appoint. And when the said number of fifty shares shall be subscribed, the stockholders in general meeting shall proceed to elect the President and Directors aforesaid.

III. That the capital stock of the company may be enlarged, from time to time, at the discretion of the stockholders, or a majority of them in general meeting, should the said capital stock be insufficient to complete the navigation contemplated by this act.

IV. That the president and directors, their successors, or a majority of them assembled, shall have power and authority to open and improve the navigation of Cypress creek, and of all the creeks running into the same; and for this purpose to agree with, or employ one or more persons upon such terms as they may think fit, and out of the said capital, or money arising from tolls, pay for making and repairing all works necessary for the said navigation, and also to appoint a treasurer, not one of their own body, but yet a proprietor; also to establish rules of proceedings, and generally to transact all the business of the company in the intervals between the meetings of the same; and any general meeting of the proprietors may allow the president and directors, such sum of money as the said general meeting may judge a reasonable compensation for their trouble: Provided always, that the treasurer shall give bond and security as the president and directors, or a majority of them shall direct, for the true and faithful discharge of the trust imposed in him; and no officer of the company shall have a vote in the settlement or passing of his own accounts.

V. That a period of three years is hereby allowed to the said company to complete the navigation contemplated by this act; and if the navigation shall not be

completed within the term of three years, from and after the first day of August next, all preference given to the said company shall cease and determine as to the stream or streams, not made navigable, as by this act directed.

CHAPTER CXL.

AN ACT to authorise the Trustees of Williams Church in the county of Martin, and their successors in office, to hold and possess one acre of land on which the said Church is situated.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That William W Williams, Sen. Wilkerby D. Simmons Ezekiel Humphries, George Cobb, Thomas Pugh, Solomon P. Williams and Benjamin Watson be, and they are hereby constituted trustees of the Methodist Episcopal Church in the county of Martin known by the name of Williams Church and that they, and their successors in office, be, and they are hereby made capable in law to hold, possess and enjoy one acre of land on which the said church is situated, conveyed by deed from David Williams to William W Williams Sen. and by him transferred to the said trustees, for the use and benefit of the members of the said church, as a place of religious worship.

II. And be it further enacted, That it shall be lawful for the members of the church to fill from time to time, such vacancies as may happen in the board of trustees appointed by this act according to the rules of discipline established for the government of the Methodist Episcopal Church.

III Be it further enacted, That the General Assembly of North Carolina, may at any time repeal this act without any proceedings at law. Provided, that such act of repeal shall not take effect until twelve months after its ratification.

CHAPTER CXLI.

AN ACT to alter the time of holding the elections in the counties of Currituck and Camden.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That from and after the passage of this act, it shall be the duty of the sheriffs and inspectors appointed by the county courts of Currituck and Camden respectively, to open the polls at the several places of election in said counties of Currituck and Camden, for members of the Senate and members of the House of Commons in the General Assembly of this State, for members of the House of Representatives of the United States, for sheriffs, clerks of the county and superior courts for the counties of Currituck and Camden, on the first Friday in August, in each and every year, under the same rules, regulations and restrictions as heretofore prescribed by law.

II. Be it further enacted That the sheriffs of Currituck and Camden counties shall meet at the store of Gideon C. Marchant at Indiantown, on the third Thursday in August, to examine and compare the votes polled for the Senators elected to represent the counties of Currituck and Camden, and on the following day, the sheriffs of Currituck and Camden counties shall attend at their respective court-houses in Currituck and Camden to compare the polls for other elections held in said counties.

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

CHAPTER CXLII.

AN ACT to prevent the felling of Timber in, or otherwise obtaining the run of Turn Bull creek in Bladen county.

Be it enacted by the General Assembly of the State of North Carolina and it is hereby enacted by the authority of the same, That if any person or persons shall fell timber in, or otherwise obstruct the run of Turn Bull creek from Malcom M'Innis' mill to John Fort's ford on said creek in the county of Bladen, he,

she, or they shall forfeit and pay the sum of twenty dollars for each and every offence, to be recovered by warrant before any justice of the peace having cognizance thereof, one half to the informer and the other half to the use of the poor of the county: Provided, that nothing herein contained shall be so construed as to prevent owners of lands on said creek from erecting water fences across the same, or building mills thereon, nor shall any person incur the penalty herein prescribed, who shall fell timber in, or obstruct the run of said creek in clearing and improving their land: Provided, he, she, or they shall remove the same within ten days.

II. Be it further enacted, That if any slave or slaves who shall offend against the provisions of this act, on conviction before any justice of the peace, he, she or they shall receive thirty lashes on their back, and the owners of the said slave or slaves shall pay all costs.

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

CHAPTER CXLIII.

AN ACT providing that no person shall fish with seine or net in the waters of the Handle lying between Great Alligator and the frying pan in the county of Tyrrell between sunset and day break.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same. That it shall not be lawful for any person to fish with any seine or net, or to lay any seine or net, or to haul any seine or net ashore, or to let any seine or net remain in the channel, or to fish or have more than one seine or set at the same fishery, at the same time in or upon the waters of the Handle between Great Alligator river and the frying pan in the county of Tyrrell, between sunset in the evening and day break in the morning.

II. Be it further enacted, That any person violating the provisions of this act shall forfeit and pay for each and every offence the sum of one hundred dollars, to be recovered before any justice of the peace in the said county, the one half to the use of the informer, and the other half to the wardens of the poor of said county; and either party may appeal as in other cases.

III. Be it further enacted, That all other acts coming within the purview of this act, are hereby repealed.

CHAPTER CXLIV.

AN ACT to give further time for perfecting titles to entries of vacant lands in the county of Stokes.

Whereas, the county of Stokes has been without any public or county surveyor since June court, eighteen hundred and thirty five, in consequence of which many citizens are unable to perfect titles to their entries of vacant lands in said county: therefore,

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same; That all persons who have entered vacant lands in said county with the entry taker; and the time allowed by law to perfect titles to the same, will have expired on the fifteenth day of December, eighteen hundred and thirty five, shall be allowed the further time until the fifteenth day of December, eighteen hundred and thirty six, to have the necessary surveys made and to pay into the treasury, the entry monies; and that the said entries shall be as good and valid in law or equity, as if the same had been done within the time prescribed by the existing laws.

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

CHAPTER CXLV.

AN ACT to incorporate the Wilmington Marine Hospital Association.

Whereas a number of individuals in the town of Wilmington, and its vicinity have agreed to establish a hospital near said town for the relief of sick and disabled

American seamen; and having already purchased land and prepared suitable houses for that purpose; in order the better to enable said individuals to carry into effect their benevolent purpose,

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That Robert W. Brown, Aaron Lazarus, Platt F. Dickerson, Henry R. Savage, Cyrus Stow, James Owen, Thos. H. Wright, James Cassiday, Edward P. Hall, Samuel Potter, Alexander Anderson, and their associates, be, and they are hereby made a body politic and corporate by the name and style of the "Wilmington Marine Hospital Association," and by that name shall have perpetual succession, may sue and be sued, plead and be impleaded, defend and be defended, shall have a common seal, and establish such rules and regulations, and make any bye-laws for the better government of said corporation as they may deem expedient, may hold real and personal estate for the benefit of said institution, and the same to dispose of at their pleasure, may appoint all such officers and agents as they may deem necessary for the management of the affairs of said corporation, and may generally use and exercise all powers incident to a corporation.

II Be it further enacted, That the real estate now held, or may hereafter be purchased or otherwise obtained by said association, shall be forever free from the public taxes of this State.

III. Be it further enacted, That the persons whose names are herein above recited, are hereby appointed managers of said Wilmington Marine Hospital Association, to hold their offices till others shall be appointed by said corporation according to the provisions of this act.

IV Be it further enacted, That at the annual meeting of said corporation, it shall be competent for the stockholders to appoint thirteen managers, who shall have full power and authority to discharge all the duties of said corporation for the space of twelve months or until a meeting of the said corporation shall take place and appoint successors.

CHAPTER CXLVI.

AN ACT directing the Entry Taker of Yancy county to issue warrants in certain cases.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That the entry taker of the county of Yancy be, and he is hereby authorised and directed to issue warrants on all entries which have been made in the entry taker's office, while the same was held by Ansel Cook, late entry taker of said county, in the same manner, and under the same regulations and restrictions, as if no vacancy had occurred in said office.

II. Be it further enacted, That no entry made in said office as aforesaid, shall be held to be lapsed or forfeited on account of failure to obtain a warrant thereon within the time allowed by law, provided a warrant has been demanded within proper time; and it shall be the duty of said entry taker to issue warrants in all cases of entries where it is satisfactorily shown that a warrant has been demanded in proper time.

CHAPTER CXLVII

AN ACT to alter the time of opening and closing the polls of the elections in the counties Chowan and Gates.

Be it enacted by the General Assembly of the State of North Carolina and it is hereby enacted by the authority of the same, That from and after the passage of this act, it shall be the duty of the sheriffs and inspectors appointed by the county courts of Chowan and Gates counties, respectively, to open the polls at the several places of elections in the counties of Chowan and Gates, for members of the Senate, and for members of the House of Commons in the General Assembly of this State, for members in the House of Representatives of the

United States, for sheriff, clerk of the county court, clerk of the superior court, for the counties of Chowan and Gates, on the day appointed by law for the holding elections for the officers herein before named at ten o'clock in the forenoon, and shall close the same at four o'clock in the afternoon.

CHAPTER CXLVIII.

AN ACT to prevent the felling of timber in, or otherwise obstructing the run of Ellis' creek, in Bladen county.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That if any person or persons shall fell timber in, or otherwise obstruct the run of Ellis' creek from John S. Pearson's mills to William Sugg's mills in the county of Bladen, he, she, or they shall forfeit and pay the sum of twenty dollars for each and every offence, to be recovered before any justice of the peace having cognizance thereof, one half to the use of the informer, the other half to the use of the poor of the county: Provided, that nothing herein contained shall be so construed as to prevent owners of land on said from erecting water-fences across the same, or building mills thereon, nor shall any person incur the penalty herein prescribed, who shall fell timber in or otherwise obstruct the run of said creek in cleaning and improving their lands: Provided, he, she or they shall remove the same within ten days.

II. Be it further enacted, That if any slave or slaves shall offend against the provisions of this act, on conviction before any justice of the peace, he, she, or they shall receive thirty lashes on their back, and the owners of the said slave or slaves shall pay all costs.

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

CHAPTER CXLIX.

AN ACT to prevent the the obstructing the passage of fish up Sugar Town Fork of the Tennessee river in the county of Macon.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That no person or persons shall on any pretence whatever, by means of a dam, wier, trap or otherwise, from and after the first day of February next, so obstruct the channel of Sugar Town Fork of Tennessee river in the county of Macon, from its mouth up to the falls above John Lambs, as not to leave one fourth of the said river in the deepest part of the main channel, open for the free passage of fish; and any person violating the true intent and meaning of this act, shall be liable on conviction thereof before a magistrate, to pay a fine not exceeding ten dollars, recoverable by warrant, one half to the use of the informer, the other half to the use of the poor of said county: Provided, however, that no person who now has a public mill dam erected across the said river, shall be subject to the penalty prescribed by this act.

CHAPTER CL.

AN ACT securing to William Tannehill and Benjamin A. Lavender, of the town of Washington and county of Beaufort, and those with whom they may associate, the right of navigating the waters of Pamptico and Tar river, from the town of Washington upwards so far as they may see proper to go, with boats propelled by steam.

Be it enacted by the General Assembly of the State of North Carolina and it is hereby enacted by the authority of the same, That William Tannehill and Benjamin A. Lavender, of the town of Washington and county of Beaufort, and those with whom they may associate, shall and they are hereby vested with the sole and exclusive right and privilege of using, employing and navigating all and every species or kind of boats propelled by the force of steam, on the waters of the Tar and Pamtico river, from the town of Washington upwards so far as they may think proper to go, for and during the term of fifteen years from and after the passage of this act: provided always that the said William Tan-

nehill and Benjamin A. Lavender and those with whom they may associate, shall charge a rate of freight for the transportation of produce, goods, wares and merchandize, on board all such boats as they may use for that purpose, ten per cent. less than the usual rates of freight for such transportation

II Be it further enacted, that the said William Tannehill and Benjamin A. Lavender, and those with whom they may associate, shall, if they think proper, have the right of making draw bridges of all or as many of the bridges that are now across, or otherwise to be built over the said river, from the town of Washington upwards, provided that the said William Tannahille and Benjamin A Lavender, and those with whom they may associate, shall from time to time, and at all times hereafter, be bound to keep the said draw or drawers so constructed in good and sufficient repair, so as not to obstruct the free passage over said bridge or bridges.

III Be it further enacted, That no person or persons, without the license of the said Wm. Tannahill and Benja A Lavender, and those with whom they may associate, shall set in operation or navigate on the waters of Pamlico and Tar rivers from the town of Washington upwards, so far as they may see proper to go, any boat or vessel propelled by the force of steam; and any person or persons who shall navigate with a boat or boats propelled by the force of steam, on the Pamlico and Tar rivers, from the town of Washington upwards, shall forfeit such boat or boats to the said William Tannahill and Benjamin A. Lavender, and those with whom they may associate.

IV Be it further enacted, That if the said William Tannehill and Benjamin Lavender, and those with whom they may associate, shall fail to put in operation said boat or boats, to be propelled by steam, within the term of four years from the passage of this act, the charter of the same is hereby forfeited.

V. Be it further enacted, That the said William Tannehill and Benjamin A. Lavender, or their legal representatives, and those with whom they may associate, shall have full power in law and equity, to purchase real or personal estate, for the use of said associated company; and to sue for and recover any boat or boats which shall or may be navigated on said river contrary to the provisions of this act.

CHAPTER CLI.

AN ACT to amend an act, entitled an act to establish the Merchants' Bank of Newbern, passed at the last session of the General Assembly.

Be it enacted by the General Assembly of the State of North Carolina and it is hereby enacted by the authority of the same, That the corporation established by the above recited act, shall at their annual meetings, and in the mode therein prescribed, elect nine directors, who shall be vested with the same powers and privileges, and subject to the same penalties and disabilities, as the seven provided by the fourth section of this act now are.

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

III. Be it further enacted, that this act shall take effect and be in force immediately after the stockholders of the said bank in general meeting agree thereto, and signify their assent to its provisions by writing duly authenticated and deposited in the office of the Secretary of State of this State.

CHAPTER CLII.

AN ACT for the relief of Rachel Edwards.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That Rachel Edwards, be, and is hereby relieved and discharged from the disability imposed by the fifth section of an act passed in eighteen hundred and twenty seven chapter nineteen, entitled an act giving the superior courts of law exclusive jurisdiction in all cases of divorce, and that she be remitted and restored to all the rights and privilege of a

feme sole, in as full and ample manner, as if she had never been married to the said Edmund Edwards, any law to the contrary notwithstanding,

CHAPTER CLIII.

AN ACT to restore to credit John Masters of Yancy county.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That John Masters of Yancy county, shall hereafter be entitled to all the rights and privileges of any other free citizen of this State, in as full and ample a manner as if he never had been convicted of the crime of petit larceny.

CHAPTER CLIV.

AN ACT to repeal so much of an act, passed in the year one thousand eight hundred and thirty one, entitled an act to incorporate the Charlotte Fire Engine Company, as exempts the members of said company from performing Military duty.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That so much of the before recited act, as exempts the members of said company from performing Military duty, be, and the same is hereby repealed.

CHAPTER CLV.

AN ACT to incorporate "the county Guard" in Rockingham.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That the company of cavalry in the county of Rockingham, is hereby incorporated by the name of the county guard, and by that name and style shall have power to adopt such bye laws, rules and regulations for the government of the same, as a majority may deem proper, not inconsistent with the laws and constitution of this State, and of the United States; and all fines, penalties, and forfeitures incurred under such bye-laws, shall be recovered in the manner, that militia fines are recovered in this State, and when so recovered, shall be applied to the use and benefit of said company for military purposes.

CHAPTER CLVI

AN ACT to incorporate the Craven County Rangers.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same. That the company of Cavalry in the county of Craven now commanded by Captain Blackwell, be, and the same is hereby incorporated and made a body politic, by the name and style of the "Craven county rangers," and by this name shall have succession, and be able and capable in law and equity, to sue and be sued, plead and be impleaded in any court in this State; and shall have power to make bye-laws, rules and regulations for the government of the said company not inconsistent with the laws and constitution of the State; and all fines, penalties, and forfeitures incurred in pursuance of said by-laws, shall be recovered in the same manner, that the militia fines are recovered in this State, and appropriated to the use and benefit of said company for military purposes.

CHAPTER CLVII.

AN ACT to authorize David Thally of New Hanover county, to erect a bridge across the north east branch of the Cape Fear River.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That David Thally of New Hanover county, his heirs and assigns, be, and they are hereby authorized and empowered to erect and keep up a toll bridge across the north east branch of the

Cape Fear river, at or near his plantation called the "Oaks" in the county aforesaid, provided he completes the same within two years from the passage of this act.

II. Be it further enacted, That as soon as the said bridge shall be completed, the said David Thally, his heirs and assigns shall be authorized to ask, demand and receive the following toll for the crossing of the same, viz: for every four wheeled carriage, twenty five cents; for every two wheeled carriage, twelve and a half cents; for every wagon with four wheels, forty cents; for every wagon or cart with two wheels, twenty cents; for every man and horse, ten cents; for every horse, five cents, for every head of cattle, sheep or hogs, two and a half cents; and for every foot passenger, three cents.

III. Be it further enacted, That should the said Thally at any time suffer said bridge to get out of repair, and so remain to the injury or detriment of any person or persons wishing to cross the same, he shall be subject to such fines and penalties, as are now prescribed by law for others in the same situation.

IV. Be it further enacted, That this act shall be in force, from and after the ratification thereof, for the space of twenty five years and no longer.

CHAPTER CLVIII.

AN ACT to increase the capital stock of the Weldon Toll Bridge Company.

Be it enacted by the General Assembly of the State of North Carolina and it is hereby enacted by the authority of the same, That the capital stock of the Weldon Toll Bridge Company, be, and the same is hereby increased to the amount of seventy five thousand dollars, and that Rice B. Pierce, Thomas T. Wiatt, William H. Day, Whitmel H Hardee, and Andrew Joyner, or any three of them, be, and they are hereby appointed commissioners to open books of subscription, on or before the first day of February next, at the town of Weldon, and at such other times and places, and under the direction of such persons, as they may appoint, to raise the additional capital hereby authorised to be created.

II. Be it further enacted, That the subscribers to the additional stock hereby authorised to be raised, shall have, possess and enjoy all the rights, benefits and privileges, stand in all respects upon the same footing, and be subject to the same rules, liabilities and restrictions, as the original subscribers to the capital stock in the said Weldon toll bridge company.

III And be it further enacted, That it shall be lawful for the said Weldon toll bridge company, through their president and directors, to borrow such portion of the said additional capital hereby authorised to be raised, as the said company in general meeting shall deem proper, to pledge the property of the company, for the payment of such loan, and to make and issue all proper evidence of such loan, and assurance of repayment thereof.

CHAPTER CLIX.

AN ACT making it the duty of the Governor to convey to the Justices of Haywood county court, certain lands therein described.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That it shall be the duty of the Governor of the State to convey to the justices of Haywood county court, in trust for the said county, any tracts of land commonly called Cherokee lands, remaining unsold within the limits of said county, whenever the said justices shall execute and deliver to the public treasurer bonds with securities, to be approved by him for such sum, as the said lands may be ascertained to come to at the prices prescribed, by law as the minimum prices for lands of the quality, that the said tracts were apportioned to be by the commissioners, by whom the same were surveyed.

II. Be it further enacted, That the bonds so executed, shall be payable in four equal annual instalments.

III. And be it further enacted, That it shall and may be lawful for the justices of said court to dispose of said lands for the use and benefit of Haywood county, under the direction of such commissioners at such time and places, and upon such terms as may be determined by said court, a majority of the justices being present.

CHAPTER CLX.

AN ACT to encourage the destruction of wolves in the county of Buncombe.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That from and after the ratification of this act, any person who may kill or destroy any wolf or wolves in the said county of Buncombe, on producing the scalps in open court, and swearing that he caught and killed the wolf from which the said scalp was taken, within the limits of the said county, with a reference to the year, he shall be entitled to receive from the clerks of the court a certificate allowing the sum of two dollars for each and every scalp, and the said certificate shall be taken by the sheriff in payment of county taxes.

CHAPTER CLXI.

AN ACT to repeal in part an act, entitled an act, for the better regulation of the fair held near Laurel Hill, in the county of Richmond, passed in the year of our Lord one thousand eight hundred and thirty

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That so much of the before recited act, as authorises the commissioners therein named to appoint a collector, be, and the same is hereby repealed, and that all the duties required by said act, to be performed by said collector, be vested in the sheriff of said county, who is hereby required to do, and perform the same, any law, usage or custom to the contrary notwithstanding.

CHAPTER CLXII.

AN ACT authorising the Governor to issue a grant to James Truit for a tract of land in the county of Macon.

Whereas, James Truit of the county of Macon, by permission of the county court of said county, has caused a toll bridge to be erected across the Tennessee river, and the abutment of said bridge on the north bank is upon the lands belonging to the State;

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That the Governor of this State be authorized and directed to cause a grant to insue to James Truit of the county of Macon, for five acres of land including his improvement and abutment of his bridge, it being district No. ten, and section No. eight on his paying into the treasury, the sum of twenty five cents per acre, and obtaining a receipt therefrom.

CHAPTER CLXIII.

AN ACT to emancipate Lucy Ann, Emiline, and Priscilla, of Cumberland county.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That Lucy Ann, Emiline, and Priscilla, are hereby, at the request of Solomon W. Nash, their father, of Fayetteville, emancipated and set free; and by the names of Lucy Ann Nash, Emiline Nash, and Priscilla Nash, shall hereafter possess and exercise all the rights and privileges which are enjoyed by other free persons of color within this State: provided nevertheless, that before the said slaves be emancipated, the petitioner shall give bond and good security to the Governor and his successors in office, in the county court of Cumberland county, that the said slaves shall honestly and correctly demean themselves as long as they shall re-

main in the State, and shall not become a parish charge; which bond may be sued upon in the name of the Governor for the time being, to the use of the parish, and of any person injured by the mal-conduct of said slaves.

CHAPTER CLXIV.

AN ACT to emancipate Delia, late the property of Benjamin Revils, deceased, and Nelson, the property of Betsey Mallett

Be it further enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same. That Delia, a slave, late the property of Benjamin Revils, deceased; and Nelson, a slave, the property of Betsey Mallett, be, and they are hereby declared to be emancipated and set free, and shall hereafter possess and enjoy all the rights and privileges of other free persons of colour in his State.

CHAPTER CLXV.

AN ACT to authorise Hardin Franklin, of the county of Surry, to erect a dam across Fishers river.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That from and after the passage of this act, Hardin Franklin of the county of Surry, shall have, and he is hereby granted leave to build or erect a dam across Fisher's river in the county aforesaid; any law, usage or custom to the contrary notwithstanding.

CHAPTER CLXVI.

AN ACT to amend an act, entitled "an act to incorporate the Roanoke and Raleigh Rail Road Company.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That the rail road authorised to be constructed from the Roanoke river to the city of Raleigh, by the act of the General Assembly of this State, passed in the year one thousand eight hundred and thirty three, entitled an act to incorporate the Roanoke and Raleigh Rail Road Company, shall commence as therein directed, and be continued by the most convenient and advantageous route, to be determined by the said company, to the city of Raleigh.

2. Be it further enacted, That it shall and may be lawful to open books of subscription for the capital stock of the said company, at any time the commissioners may appoint, betwee the first day of February and the first day of April next, at the usual places, and under the superintendence of the commissioners named in the said recited act, and such as are hereinafter mentioned, and to keep them open at each place at least sixty days; at the expiration of which time, it shall be the duty of the said commissioners to return their books to the commissioners at Raleigh; and if the capital stock authorised by the said act shall have been subscribed, it shall be the duty of the said commissioners at Raleigh to call a general meeting of the stockholders of the said company at the said city of Raleigh, as early as may be conveniently practicable.

3. Be it further enacted, That in addition to the commissioners named in the before recited act, to which this is an amendment, for receiving subscriptions to the capital stock of the said company, there shall be appointed the following persons, to wit: at Raleigh, Duncan Cameron, Thomas P. Devereux, William Peace, Ruffin Tucker, Wm H. Haywood, Jr., Alfred Jones, Benj B. Smith, and Weston R. Gales; at Halifax, James Halliday, Jos L Simmons, Bartholomew F. Moore, and Spear Whitaker; at Nashville, in the county of Nash, S W. W. Vick; at Warrenton, Daniel Turner, Peter R. Davis; at Oxford, Russel Kingsbury, Lunsford, A. Paskal and James M. Wiggins; at Louisburg, William P. Williams and Henry J. G. Ruffin.

4. Be it further enacted That the said company shall be authorized to demand and receive a sum not exceeding the following rates, viz; on goods, produce and merchandize or property transported, not exceeding four cents a ton, per mile, for toll, and eight cents per mile for transportation, and for the transportation of passengers, not exceeding six cents per mile, until the nett profits received shall have amounted to a sum equal to the capital stock expended with six per cent. per annum, interest thereon, from the time the money was advanced by the stockholders, and received back in the nett profits; but when the nett profits received as aforesaid, from the tolls aforesaid, shall have amounted to a sum equal to the capital stock expended as aforesaid, with six per cent. interest thereon as aforesaid, then the tolls which the said president and directors, shall be entitled to receive for the transportation of produce or other commodities on the said rail road, shall be so fixed and regulated from time to time, by the said president and directors, as to make them sufficient in their estimation, to yield a nett profit not exceeding fifteen per cent per annum, on the capital stock expended in making and completing the said rail road, over and above what may be necessary for the repairs and renewal of the same.

5. Be it further enacted, That it shall be the duty of the said president and directors, to establish at suitable and convenient points on the said rail road; the necessary depots for the reception of produce and other commodities, intended to be transported on the said rail road; and it shall be their duty to transport the same from the said depots, and from no other place or places, in the order of time in which the same shall have been received, so as to give no preference to any one.

6. Be it further enacted, That in counting all votes of the said company, each member shall be entitled to one vote for each share, as far as ten shares, and one vote for every ten additional shares held by him at the time, in the stock of the company.

7 Be it further enacted, That it shall and may be lawful for the Petersburg and Roanoke Rail Road Company, to construct a rail road from the bridge now erecting at Weldon, to whatever point of their rail road extending from Petersburg to Blakely, they may deem proper, and to purchase and condemn lands necessary for the construction of the said road, upon the same terms, and under the same rules and regulations as lands are authorized to be purchased or condemned by the act, to which this is an amendment, and to ask and receive such rates of toll for the transportation of produce and other commodities, and for the transportation of passengers, as the said Petersburg and Roanoke Rail Road Company, are now authorized by law to charge under the charter granted to them by the General Assembly of North Carolina

8. Be it further enacted, That if the president and directors of the said Roanoke and Raleigh Rail Road Company, shall not begin the said road in one year, and complete forty miles thereof in six years thereafter, then all the rights, powers and privileges, granted by this act, shall be forfeited.

9. Be it further enacted, That citizens of the State of North Carolina, shall have the exclusive right of subscribing for the capital stock of the said Roanoke and Raleigh Rail Road Company, for thirty days after the books aforesaid shall have been opened at the several places mentioned in the said recited act; after which time it shall and may be lawful for persons to subscribe without regard to residence; and that the president and directors of the said company, shall be resident citizens of the State of North Carolina.

10. Be it further enacted, That nothing in this act, or the act to which this is an amendment, shall be so construed as to prevent any rail road company, that is now incorporated by the Legislature of this State, or that may be hereafter incorporated, from crossing upon a level with, or otherwise as they may think

proper, said road, whenever they may think proper; and said Roanoke and Raleigh Rail Road Company, shall in due time erect a depot at said intersection, for the safe keeping of produce or merchandize, under the same regulations as at their other depots; upon failure to do which the road crossing or intersecting, shall do the same under said regulations; provided the free passage of said road is not thereby obstructed by being crossed or intersected as aforesaid.

CHAPTER CLXVII.

AN ACT supplemental to an act, passed at the present session of the General Assembly, entitled "an act to amend an act, passed in the year one thousand eight hundred and thirty three, incorporating the Roanoke and Raleigh Rail Road Company."

Be it enacted by the General Assmbly of the State of North Carolina, and it is hereby enacted by the authority of the same, That the said Roanoke and Raleigh Rail Road Company, shall be exempt from any public charge or tax whatsoever, for the term of fifteen years; and thereafter, the Legislature may impose a tax not exceeding twenty five cents per share, on each share of the capital stock of said company, whenever the annual profits thereof shall exceed six per cent.

Read three times and ratified in General Assembly, this 22d day of December, 1835

WM. H. HAYWOOD, JR., *S. H. C.*
WM. D. MOSELEY, *S. S.*

A true copy.
WM. HILL, *Secretary.*

RESOLUTIONS,

Passed by the General Assembly of 1835.

WHEREAS, the proceedings of certain persons in the middle and eastern States during the past summer, have furnished clear proof of a determination to promote, by means the most unjustifiable and iniquitous, the abolition of Slavery in the States of the Union in which it now exists; and whereas, as well from the wealth, number, and assiduity of the persons engaged in this criminal purpose, as from the means they have resorted to, to accomplish their designs, serious fears are entertained that our property, the peace of our country, and the Union of the States, may be endanger thereby—this General Assembly feel called upon by a just regard for the interest and happiness of the good people of this State, and of the other States similarly situated, as well as by an anxious solicitude for the preservation of the Union, which at present so happily unites all the States into one confederated people, to declare the opinions, and set forth the purposes of the people of this State, in language at once firm, clear, decided, and temperate.

When the American Colonies first united for their protection from the encroachments upon their rights and privileges, made by the King and Parliament of Great Britain, they assumed the character of sovereign and independent States—they united under an organization which was in strictness, a league—leaving the direct power of operating upon the citizens of each State, with its own constituted authorities; and when the present constitution was adopted, though to all general purposes it constituted the people of the States one people, with one government, having a direct legislative, judicial, and executive authority over the citizens, yet it declared by a specific enumeration, the powers intended to be granted to this government, and expressly declared, out of abundant caution that the powers not granted belonged to the States respectively, or to the people. At the time when this constitution was adopted, as well as at the time when the confederation was formed, each of the States recognized the right of its citizens to hold slaves. The constitution contains no grant of a power to any department of the government to control the people of any State in regard to its domestic institutions—certainly not in regard to that now in question. It is clear, therefore, that the whole power of regulating this subject within the State of NorthCarolina is vested now in the authorities of this State, as fully as on the day the Independence of the States was declared; for though much difference of opinion has existed as to the principle upon which the grants of power in the Constitution are to be interpreted, no one has ever had the temerity to assert, that the General Government may assume a power which is not granted in terms, and is not necessary as an incident to the proper exercise of a granted power.

We have, therefore, an undoubted right to regulate slavery amongst ourselves, according to our own views of justice and expediency—to continue, or abolish—to modify or mitigate it in any form and any extent, without reference to any earthly authority, and solely responsible to our own consciences and the judgment of the Governor of the Universe. No other State, and no portion of the people of any other State, can claim to interfere in the matter, either by authority, advice, or persuasion; and such an attempt, from whatever quarter it may come, must ever be met by us with distrust, and repelled with indignation.

Upon the other States of the Union, our claim is clear and well founded. If they were foreign States, it would be a violation of national law in them, either to set on foot themselves, or permit their own subjects to set on foot, any project the object or tendency of which would be to disturb our peace by arraying one portion of society against another. The constitution which unites us, and by virtue of which we have ceased to be foreign States in regard to each other, and have become bound in the closest Union and the most intimate relations for the promotion of the common defence and general welfare, cannot be supposed to have lessened our mutual obligations, or to have made an act harmless which would have been gross wrong had we continued in respect to each other as we now are in respect to other nations, in war enemies, and only in peace friends. It is evident, on the contrary, that every duty of friendship towards each other which before existed, is by our Union heightened in its obligation, and enforced by motives the most exalted and endearing. Whatever institution or state of society we think proper to establish or permit, is by no other State to be disturbed or questioned. We enter not into the inquiry, whether such institution be deemed by another State just or expedient. It is sufficient that we think proper to allow it. To protect us from attempts to disturb what we allow, and they approve, would be to support not our institutions, but their own opinions,—to exercise a supervising power over our legislation, and to insult us with a claim of superiority in the very offer to discharge the duty which our relations authorise us to require. As our right is indisputable, to regulate exclusively, according to our own notion, the interior relations of our own people, the duty of pre-

venting every attempt to disturb what we have established, results from the simple fact, that we have established it. And the propriety and impropriety in the view of others of such regulations as we have pleased to make, can never either enhance or lessen the duty of such preventions.

We do full justice to the general sentiment and feelings of our fellow citizens in other States, and are fully aware that the attempts to injure us are made by a small minority,—composed, probably, of many misguided and some wicked men; and that these attempts meet with no favour, but on the other hand with marked disapprobation from the large majority of the communities in which they are made. Still it must be recollected that from the nature of the means employed, the danger to us is the same, whether these means are put into activity by a contemptible minority, or are sanctioned and adopted by the whole body of the people. An incendiary pamphlet performs its office of mischief as effectually when issued under the patronage of twenty, as of twenty thousand persons. Its efficiency depends upon its circulation, not upon the weight of authority which supports it.

While, therefore, we are justly sensible of the sympathy for us, and the indignation against those who seek to disturb our peace, expressed by large and intelligent assemblies of our northern and eastern brethren, we cannot but know, that these expressions do in no way diminish our danger. While the abolitionists are allowed to pursue their course with no other check than the disapprobation of their fellow citizens, that disapprobation will little affect them, and bring no support or consolation under the evils that are likely to befal us. We ask not sympathy, for we feel not, from the institutions we possess, that we suffer injury. We ask protection, not to maintain our authority by force of arms, for to that we know ourselves entirely adequate, but we ask protection from the necessity of resorting to such force for that purpose. We ask not assistance, to put down insurrectionary movements among our slaves, for should such occur, we are fully able to put them down ourselves. But we ask, that our slaves and ourselves may be relieved from external interference. Left to themselves, we believe our slaves as a labouring class as little dangerous to society as any in the world. But we do ask, and think we have a right to demand, that others shall not teach them evil, of which they think not themselves; that they should not be stimulated by the base and violent of other lands, to deeds of bloodshed, of which the evils to us will be temporary—to the slaves themselves dreadful and lasting; that we may not be compelled, by a factitious necessity, to adopt measures or rigor, which such necessity only could justify

By some it seems to have been supposed, that the practices of the abolitionists cannot be put down by legislation, consistently with the constitutions of the states in which they live.—If this were true, it would furnish no answer to our just complaint and afford no excuse to those states for permitting such practices to continue. The duty, the performance of which we invoke, is binding upon those states, and they have no right to disable themselves from its performance by an organic law, more than to refuse its performance by an ordinary act of legislation. The obligation being perfect, cannot be dissolved by any arrangement of the party on whom the obligation rests. If therefore, any such difficulty did in reality exist, we should have a right to ask, that the organic law which produced it, should be so altered as to remove it. But does any such difficulty exist? The one supposed is this: That as the abolitionists seek to accomplish their object by the issue of inflammatory publications, a law to arrest their progress would be a violation of the liberty of the press. This difficulty has its origin in a total misconception of what is meant by the liberty of the press; which means not the right to publish without responsibility, but to publish without previous permission. If it meant the former, the liberty of the press would be the greatest curse which could be inflicted on a nation. Where every man has a right to publish what he pleases, but is responsible to the law for the nature and tendency of his publication, the press is free. If he has the right to publish without such responsibility, the press is licentious If the latter right exist, it is the only instance known to our laws, of a right to act without any accountability for the action. Every man has a right to carry arms for his own defence, and that right is as clear and as important as the freedom of the press; yet it was never supposed that he who used arms for violence or bloodshed, was therefore irresponsible, because he had a right to carry them for defence.

But it is unnecessary further to set forth the justice of our claims on our brethren of the north and east, and their capability, if they were desirous, of complying with our just demands. We believe that our property, the lives of our fellow citizens, and the peace and harmony of our country, are threatened by the measures of these misguided and wicked men; and though we feel the greatest attachment for the Union, and would do all in our power to strengthen and perpetuate it, yet we are not ready to surrender those very rights and blessings which that Union was formed to protect: And should the means now adopted, prove ineffectual in stopping the progress of these attacks on our peace and happiness, we would invoke the aid of the other slave holding States, that there may be concert of action in taking such steps as the occasion may demand.

1. Resolved, That North Carolina alone has the right to legislate over the Slaves in her

territory, and any attempt to change their condition, whether made by Congress, the legislatures, or the people of other States, will be regarded as an invasion of our rights.

2. That we are ready and willing to make, on this subject, a common cause with the rest of our sister slave-holding States, and hereby invite their co operation in passing such laws and regulations as may be necessary to suppress and prevent the circulation of any incendiary publications within any of the slaveholding States.

3. Resolved, That the thanks of this State are due, and the kindest feelings of the Citizens thereof are cherished towards the brethren of the North, who have magnanimously sustained the principles of our Federal Government, and recognized and maintained our rights against the fanatics of those States.

4. Resolved, That our sister States are respectfully requested to enact penal laws prohibiting the printing within their respecting limits, all such publications as may have a tendency to make our slaves discontented with their present condition, or incite them to insurrection.

5. Resolved, That although by the Constitution all legislative power over the District of Columbia is vested in the Congress of the United States, yet we would deprecate any legislative action on the part of that body towards liberating the slaves of that District, as a breach of faith towards those States by whom the territory was originally ceded, and will regard such interference as the first step towards a general emancipation of the slaves of the South.

6. Resolved, That we confidently rely upon the Congress of the United States, in passing such laws as may be necessary to prevent the circulation of inflammatory publications through the Post Office Department.

7. Resolved, That the Governor be, and he is hereby requested to forward a copy of this preamble and resolutions to each of our Senators and Representatives in Congress, and to the Executive of each of the States of the Union, with a request that the same be submitted to their respective legislatures.

Resolved, That the Governor be, and he is hereby authorised to appoint a commissioner, whose duty it shall be to sell at public sale the remaining lands which have been surveyed, acquired by treaty from the Cherokee Indians, according to the provisions of an act of this General Assembly, passed in the year 1833, entitled "an act directing the sale of the lands remaining unsold acquired by treaty from the Cherokee Indians;" and that he report the proceedings of said commissioner to the next General Assembly.

Whereas, the printed resolution passed at the last session of the General Assembly, authorising the Public Treasurer to commence suits upon the bonds given for the purchase of the Cherokee lands, upon which one fourth is not paid by the first day of December, one thousand eight hundred and thirty five; and whereas the word five was improperly incorporated in the place of that of six, in said resolution: Be it therefore

Resolved by the General Assembly of the State of North Carolina, that the public Treasurer be, and he is hereby directed not to commence suits upon said bonds, until the first day of December, one thousand eight hundred and thirty six, unless upon the happening of some of the contingencies mentioned in the before recited resolution.

Resolved, That the Comptroller credit Samuel F. Patterson, Public Treasurer, for three thousand one hundred dollars and twenty three cents, for treasury notes burnt by the committee of finance on the twenty third of November, eighteen hundred and thirty five, and the sum of two hundred and fifty six dollars and six cents burnt on the seventeenth December, eighteen hundred and thirty five.

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1. Be it resolved by the General Assembly of North Carolina, That hereafter it shall be the duty of the reporter of the decisions of the supreme court of this State to cause to be printed according to the provisions of an act passed in the year one thousand eight hundred and twenty two, entitled "an act to provide a revenue for the payment of the civil list and contingent charges of government" a number of copies of said reports (in addition to the number directed in said act) equal to the number of States and Territories in the United States, and deposit the same in the executive office of this State.

2. Be it further resolved, That it shall be the duty of the Governor of this State to transmit at the expense of this State to the executive department of each of the States and Territories, a copy of the Supreme court reports beginning with the first number of Devereux and Battle's reports, and also to each department of said government, one copy of the public laws of this State, and solicit an interchange of the same.

3. Be it further resolved, That the Governor cause to be procured at the public expense two copies of the decisions of the supreme court, consisting of the reports of Hawks and Devereux, and transmit them to the executive branch of the government of Maryland and Kentucky.

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1. Resolved, That D. L. Barringer and Willie N. White, be, and they are hereby released and discharged from a judgment in favour of the State against them for a debt contracted in

the purchase of two lots of ground east of Raleigh, about eighteen hundred and twenty: Provided, they will first pay all costs, and secure to the State two hundred dollars, and also release and surrender all right to the lots aforesaid.

2 Resolved further, That the treasurer may take the security for the aforesaid two hundred dollars, and allow a credit of twelve months for one half, and two years for the other.

Resolution requiring the public treasurer to procure specie change for the redemption of treasury notes.

Resolved, That the public Treasurer be authorised and instructed to procure in specie change of the coin of the United States, any sum that may be required at his office for the redemption of Treasury notes.

Resolved, That the principal clerks be authorised to employ assistant engrossing clerks, at such prices as they may agree on with the persons employed.

Resolved, That the principal clerks of the Senate and House of Commons, be authorized to employ as many suitable persons to assist the engrossing clerks in their labours, as will enable them to expedite the business of the two Houses.

Resolved, That the Governor be, and he is hereby authorised to have sold, in such way and on such terms as he may think proper, the engine and other machinery, heretofore used as a dredging machine on the river Cape Fear, which now lies in the town of Wilmington in an exposed situation, and pay the nett proceeds, after the payment of the expenses heretofore incurred in storing and preserving the same, into the public treasury.

Resolved, That the public treasurer be, and he is hereby authorised and directed to pay to the widow of James Grant, late Comptroller of North Carolina, ninety one dollars and sixty-seven cents, being the amount due to the said James Grant, as comptroller aforesaid, for his services from the first of October, one thousand eight hundred and thirty-four to the third of November, one thousand eight hundred and thirty-four, the time of his death.

Resolved, That the treasurer of the State pay to Matthew Miller, a surviving soldier of the Revolution, or his order, the sum of ninety five dollars per annum during his natural life, instead of seventy-five dollars now allowed him, and that he be allowed accordingly in the settlement of his accounts.

Resolved, That the committee of Finance, be authorised and instructed to burn all the treasury notes, which may be in the treasurer's office, and report the amount to this General Assembly.

Resolved, That the treasurer be directed to pay out of any money belonging to the State, in his hands, to the order of the Governor, any sum not exceeding four hundred and fifty dollars, for the purpose of fitting up and furnishing the two lower rooms of the government House, now occupied by the Senate, and the two rooms immediately above them, for a residence for his Excellency the Governor.

Resolved, As the sense of the General Assembly of North Carolina, that it is expedient, that the Congress of the United States should order and direct the engineer in charge of the Dredge Boat, now operating at Ocracoke, to remove the obstructions in Core sound, between Beaufort and Pamlico sound in this State, by means of said Dredge boat, whenever the same is not required by, and cannot operate upon the public works at Ocracoke.

Resolved further, As the sense of this General Assembly aforesaid, that it is expedient that the Congress of the United States should make sufficient appropriation, in money, to clean out, and remove the said obstructions in Core sound, so as to deepen the channel of the same, and to improve the navigation thereof.

Resolved, That his Excellency the Governor, be requested to transmit a copy of these resolutions, to each of our Senators and Representatives in Congress.

Resolved, That the secretary of state issue a grant to John Cooper of Rutherford county, for two hundred acres of land according to a survey founded upon his entry, number 1267, and duplicate warrant of survey dated the 6th day of November, 1835, and survey dated the 9th of November in the year last mentioned, he first paying the purchase money.

Resolved, That the public treasurer be authorised and directed to pay to James C. Turrentine, Sheriff of the county of Orange, the sum of thirty-two dollars and forty cents for one hundred and sixty-two taxable polls allowed said Turrentine, by the county court aforesaid for the year 1833; and that the public treasurer be allowed the same in the settlement of his accounts.

Resolved, That if it should become necessary to enable the treasury to discharge any demands on it during the present fiscal year, the public treasurer be, and he is hereby authorized and empowered to borrow on behalf of the State, such sum or sums as may be required to meet such demands, not exceeding fifty thousand dollars; and he is hereby authorized at his discretion to borrow the same of either of the Banks in this State, or of any person or persons, bodies politic or corporate in this State or elsewhere, and for such length of time as the exigencies of the treasury may require: Provided, he shall in no case pay more than at the rate of six per cent per annum interest on any such loan.

Resolved, That the Governor is hereby authorised to cause the arms, which were placed in the hands of George Gilbeath, Captain of an artillery company in Wilkes county, to be delivered to the commandant of the seventy-fourth Regiment, and on the delivery of the arms, the commandant shall receipt for the same.

Resolved, That the public treasurer be, and he is hereby directed, to pay to the widow of the late William Gilliam, deceased, a soldier of the Revolution, the sum of thirty dollars and twenty-four cents, it being the amount due the said Gilliam, for three months service rendered by him in the war of the revolution, and interest on the same from the seventeenth day of August one thousand eight hundred and thirty-one, the time he died, up to this time, and he be allowed the same in the settlement of his public accounts.

Resolved, That the Adjutant General be authorised, and he is hereby required, to have the Arsenals at Raleigh and Fayetteville repaired in such manner as he may think absolutely necessary, and that his warrant upon the treasurer for the amount thereof, shall be sufficient authority for the payment thereof.

Resolved, That the public treasurer pay to each of the door-keepers of both Houses twenty five dollars, their usual extra allowance; and that they be compelled to pay out of the same, the hands necessarily employed by them, to bring wood and water to the State-House during the present session of the Legislature.

Resolved, That the public treasurer pay to William T. Bain twenty-five dollars for carrying and delivering a writ of election to the sheriff of Craven county, to hold an election to supply the place occasioned by the resignation of Richard D. Spaight, Esq. and that he be allowed the same in the settlement of his public accounts.

Resolved, That the public treasurer be, and he is hereby required to pay the clerk of the Senate thirty-three dollars and seventy-five cents, for revised code, Taylor's revisal acts, and journals of the General Assembly, procured for the use of the Senate, in pursuance of a resolution adopted by the Senate during the present session; and that he be allowed the same in the settlement of his public accounts.

Resolved, That the public treasurer pay to Leonard Buckannon the sum of five dollars, which sum he paid the State for a grant of fifty acres of land, granted to Robert Jones, which interest in said fifty acres was assigned over to said Buckannon, and was included in an older grant; and that he be allowed the same in the settlement of his accounts.

Whereas, it appears from the return of the entry-taker of Haywood county in the office of secretary of State, that Jesse Wright made two entries for twenty-five acres of land each, one number forty-seven, and the other number fifty-eight, which last entry was made on the twenty sixth of June, eighteen hundred and thirty-two; and it is represented to this General Assembly, that the said Jesse Wright intended to pay and clear out the entry number fifty-eight, when, through mistake, he paid for number forty-seven.

Be it therefore resolved, That the secretary of State be, and he is hereby directed to issue a grant to said Jesse Wright on his warrant number fifty eight, which is surveyed and returned to his office on the payment made on number forty-seven, and that he do not issue a grant on number forty-seven.

Resolved, That the public treasurer be, and he is hereby directed to pay Mark H. Hill the sum of twenty-eight dollars and fifty cents for carrying and delivering a writ of election to the sheriff of Cabarrus county, and that he be allowed the same in the settlement of his public accounts.

Resolved, That the public treasurer refund to Neil McAlpin, Sheriff of Robeson, the sum of two hundred dollars, the same being the amount of a fine, which he incurred and paid into the treasury, under the act of one thousand eight hundred and thirty-one, increasing the liabilities of sheriffs.

Resolved, That the treasurer pay to James G. Stockard or his agent five dollars for carrying and delivering to the sheriff of Orange county, a writ of election to supply the place of James Forest, deceased; and that he be allowed the same in the settlement of his public accounts.

Resolved, That the public treasurer pay to Isaac Truitt eighteen dollars and seventy cents, for articles furnished the Government House during this session of the General Assembly.

Resolved, That the public treasurer, be authorised and directed to pay to Nathan A. Stedman, the sum of two hundred dollars, as compensation for making the necessary entries on the books of his office up to the time of his qualification as comptroller of the State.

Resolved, That the public treasurer pay to the president and managers of the Wilmington Marine Hospital Association, the sum of one thousand seven hundred and fifty-two dollars and forty cents, which was collected under an act for the relief of sick and disabled American seamen in the year of one thousand eight hundred seventeen, and paid into the public treasury, for the purpose of aiding in the erection of a marine hospital at the port of Wilmington.

Resolved, That the treasurer pay to Richard Ashton fifty dollars, for taking care of the Government House the year eighteen hundred and thirty-four, and eighteen hundred and thirty-five, and that he be allowed the same in the settlement of his public accounts.

Resolved, By the General Assembly of the State of North Carolina, that the Secretary of State issue to Zachariah Candler, a grant for one hundred and fifty acres of land in Buncombe county, the purchase money of which was paid by the said Candler, per warrant eleven thousand and forty-five.

Whereas, Bartlet Dills, Jr. of Haywood county has become the purchaser of an entry of land, made by James Gibby in the Entry-taker's office of Haywood county, number one hundred and eight, and entered November the nineteenth, eighteen hundred and thirty-two; and whereas, the said Gibby has removed without the limits of this State;

Be it therefore resolved, That the Secretary of State be, and he is hereby directed to issue a grant to Bartlet Dills, Jr. of the county of Haywood, for seventy-five acres of land, lying in the said county, upon the aforesaid entry.

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TREASURER'S REPORT.

TREASURY DEPARTMENT, November 16, 1835.

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

In obedience to the directions of an act of the General Assembly, passed at the session of 1827, entitled "an act concerning the Public Treasury, the Public Treasurer respectfully submits the following REPORT:

I. *Of the Public or Unappropriated Revenue and Expenditures.*

The balance of cash in the Public Treasury on the 1st day of November, 1833, was		$57,877 24
The receipts of the ensuing fiscal year, ending on the 31st day of October, 1834, amounted to		202,127 28
Making an aggregate of		260,004 52
The disbursements during the same period amounted to		191,571 11
Balance 1st Nov. 1834, as reported to the last General Assembly,		68,433 41

The receipts at the Treasury Department for the last fiscal year, that is, from the 31st of October, 1834, to the 1st of November, 1835, amount to one hundred and fifty thousand, one hundred and nine dollars, and fifty-six cents, ($150,109 56) and consist of the following items, viz:—

Cash received from the Sheriffs for public tax of 1834, being the *ordinary* revenue payable into the Treasury, on the 1st Oct. 1835, and not specifically appropriated,	$71,740 93
Cash received from sheriffs on account of additional returns of taxes, (see statement A.)	428 19
Ditto Bank of Newbern, for dividend of 10 per cent. on 1818 shares of the capital stock, declared in August, 1834,	18,180 00
Ditto Bank of Cape Fear, for dividend of 3 1-2 per cent. profit on 10 shares of stock unappropriated, declared in January, 1835,	35 00
Ditto Buncombe Turnpike Company, for dividend of 13 per cent. profit on 50 shares of stock, declared in January and October, 1835,	650 00
Ditto State Bank of North Carolina, for dividend of profit of 2 per cent. on 2768 shares, declared in Nov. 1834,	5,536 00
Ditto State Bank of North Carolina, for dividend of 8 per cent. on 2768 shares of capital stock, declared in March, 1835,	22,144 00
Ditto Bank of Newbern, for dividend of 15 per cent. on 1818 shares of the capital stock, declared in April, 1835,	27,270 00
Ditto Bank of Cape Fear, for dividend of 5 per cent. profit on 10 shares of stock unappropriated, declared in May, 1835.	50 00
Ditto ditto for dividend of 1 per cent. profit on 10 shares of stock unappropriated, declared July, 1835,	10 00
Ditto Bank of the State of North Carolina, for interest on advance payments, made on 300 shares of stock owned by the State,	621 38
Ditto Bank of the State of North Carolina, for dividend of 2 1-2 per cent. profit on 300 shares of stock, owned by the State, declared in June, 1835,	750 00
Ditto Bank of the State of North Carolina, for tax of 25 cents on each share of stock owned by individuals in said Bank,	2,250 00

Ditto from Rich'd D. Spaight, being the amount of two days pay as a member of the Legislature, overdrawn through mistake in the certificate at last session,		6 00	
Ditto from Miss E. E. Haywood, for rent of public lots for the year 1834,		10 00	
Ditto from H. H. Cooke, for his note given for part of the Bushy Branch tract of land,			
	Principal $201 00		
	Interest 12 06		
		213 06	
Ditto from Rufus Haywood, for his bond given for purchase of part of the lands of the late Treasurer Haywood,			
	Principal $143 33		
	Interest 66 67		
		215 00	
			$150,109 56
Which, added to the balance above stated, will make the sum of			218,542 97
The disbursements at the Treasury from the Public Fund, for the same period, that is, from the 31st Oct. 1834, to the 1st November, 1835, amount to the sum of			171,686 67
Which deducted, shows the balance of cash remaining in the hands of the Public Treasurer, and for which he is accountable on the 1st day of November, 1835, to be			$46,856 30

The disbursements for the year, as stated above, and deducted, consist of the following general items, viz:

General Assembly,	$40,981 74
Rebuilding Capitol,	70,000 00
Judiciary,	26,201 42
Executive Department,	2,600 00
Treasury Department,	2,000 00
Department of State,	1,166 50
Comptroller's Department,	842 37
Library Fund,	515 15
Contingencies,	7,498 50
Sheriffs for settling Tax,	995 50
Do for comparing Congressional Polls,	497 01
Do for making Convention Returns,	966 33
Convention,	10,117 93
Public Printer,	900 00
Pensioners,	1,040 00
Adjutant General's Office,	200 00
Treasury Notes burnt by Committee of Finance, session of 1834,	5,138 22
Bogue Banks,	10 50
Governor's House,	15 50
	$171,686 67

The Statement usually furnished by the Comptroller, for the use of the members of the General Assembly, will be found to contain a detailed exhibit of each and every individual disbursement made at the Treasury Department, during the past year. It is, therefore, respectfully referred to for the particulars in each of the foregoing accounts.

II. *Of the Literary Fund.*

The balance of cash in the hands of the Public Treasurer, as Treasurer of the Literary Fund, on the 31st Oct. 1834, as reported by him to the General Assembly of that year, was $19,403 99

The receipts at the Treasury Department, of money belonging to this fund for the last year, that is, from the 31st of October, 1834, to the 1st of November 1835, amount to twenty-nine thousand six hundred and seventy dol-

lars and seventy-two cents, (29,670 72) and consist of the following items, viz:

Cash received from the Bank of Newbern, for dividend of 10 per cent of the capital on 141 shares of stock owned by this fund, declared Aug. 1834,	1,410 00	
Ditto Bank of Cape Fear, for dividend of 3 1-2 per cent profit on 704 shares of stock appropriated to this fund, declared in Jan. 1835,	2,464 00	
Ditto Bank of Cape Fear, for dividend of 3 1-2 per cent profit on 50 shares of stock, owned by this fund, and declared as above,	175 00	
Ditto from the Cape Fear Navigation Company for dividend No. 10 of 2 per cent, declared May 28th, 1831, received Jan. 1835,	566 14	
Ditto State Bank of North-Carolina, for dividend of 2 per cent profit on 282 shares of stock owned by this fund, declared November, 1834,	564 00	
Ditto State Bank of North-Carolina, for dividend of 8 per cent capital on 282 shares of stock owned by this fund, declared March, 1835,	2,256 00	
Ditto Bank of Newbern, for dividend of 15 per cent capital on 141 shares of stock, owned by this fund, declared April, 1835,	2,115 00	
Ditto Cape Fear Navigation Company, for dividend No. 11, on the shares owned by the State, and appropriated to this fund.	650 00	
Ditto Bank of Cape Fear, for dividend of 5 per cent profit on 704 shares of stock appropriated to this fund, declared in May 1835,	3,520 00	
Ditto Bank of Cape Fear, for dividend of 5 per cent profit on 50 shares of Stock owned by this fund, declared as above,	250 00	
Ditto Bank of Cape Fear, for dividend of 1 per cent on 704 shares of stock appropriated to this fund, declared in July, 1835,	704 0	
Ditto Bank of Cape Fear, for dividend of 1 per cent on 50 shares of stock owned by this fund, declared as above,	50 00	
Ditto Bank of the State of North-Carolina, for interest on advance payments, made on 1200 shares of stock in said Bank, subscribed for in behalf of this fund, in May, 1834,	3,106 86	
Ditto ditto for interest on an advance payment of the 4th instalment, on 240 shares of stock subscribed for in behalf of this fund in Jan. 1835,	93 70	
Ditto received from the Bank of the State of North-Carolina, for dividend of profit of 2 1-2 per cent on 1550 shares of stock owned by this fund, declared in June 1835,	3,875 00	
Ditto ditto for dividend of 2 1-2 per cent profit on 76 shares of stock owned by this fund, subscribed 15th July, 1835, declared in June, 1835,	190 00	
Ditto ditto for dividend of 2 1-2 per cent profit on 49 shares of Stock owned by this fund, subscribed 2nd Oct. 1835, declared as above,	100 00	
Ditto for entries of vacant land,	4,541 30	
Ditto from sundry Auctioneers, for tax on sales at auction,	546 84	
Ditto from sheriffs, for tax on retailers of spirituous liquors,	2,492 88	
		29,670 72
Which, added to the balance above stated, make the aggregate sum of		$49,074 71

The disbursements from the Literary Fund, during the foregoing period, are as follows, viz:

This sum paid Charles Dewey, Cashier of the Bank of the State of North-Carolina, for 240 shares of Stock, subscribed for on the 5th Jan. 1835,	24,000 00	
This sum paid do. for interest on deferred payment of do.	398 47	

This sum paid Wm. R. Hill, for his services as Secretary to the Board of Directors of the Literary Fund, for the year ending 31st Dec. 1834. - - - -	20 00	
This sum paid Charles Dewey, Cashier of the Bank of the State, for 110 shares of Stock, subscribed May 4th, 1835,	11,000 00	
This sum paid ditto for interest on deferred payment of do.	342 67	
This sum paid ditto do. for 76 shares of Stock, subscribed 15th July, 1835, - - - - - -	7,600 00	
This sum paid ditto, for interest on deferred payment of do.	321 66	
This sum paid ditto do, for 40 shares of stock, subscribed for on the 2nd October, 1835, - - - -	4,000 00	
This sum paid ditto, for interest on deferred payment of do.	224 83	
Making an aggregate amount of		$47,907 63
Which deducted from the amount above stated, leave, a balance in the hands of the Public Treasurer, as Treasurer of the Literary Fund, on the 1st day of November, 1835, of - - - - - -		1,167 08

III. *Of the Fund for Internal Improvement.*

The balance of cash in the hands of the Public Treasurer, as Treasurer of the Fund for Internal Improvement, on the 31st of October, as reported by him to the General Assembly of that year, was -		$6,539 42
The receipts at the Treasury Department, on account of the Fund for Internal Improvement, for the last year, that is, from the 31st of October, 1834, to the 1st of Nov. 1835, amount to fourteen thousand seven hundred and thirty-six dollars and seventeen cents, ($14,736 17) and consist of the following items, viz:		
Cash received from the Bank of Cape Fear, for dividend of 3½ per cent. on 1358 shares of stock appropriated to this Fund, declared in January, 1835, - -	4,753 00	
Ditto from ditto, for dividend of 5 per cent. on 1358 shares of stock appropriated to this Fund, declared in May, 1835, - - - - - - - -	6,790 00	
Ditto from ditto, for dividend of 1 per cent. on the same shares, declared in July, 1835, - - - -	1,358 00	
Ditto received from sundry persons on Cherokee bonds, Principal, $1,184 44 Interest, 650 73	1,835 17	
		14,736 17
Which, added to the balance above stated, forms an aggregate amount of		21,275 59
The disbursements from the fund for Internal Improvement, during the same period, are as follows, viz:		
This sum paid Jas. Wyche, Superintendent of public works, balance of salary and postage, - - -	5 28	
This sum paid Wm. R. Hill, for services as Secretary to the Board of Internal Improvement, for the year 1834,	21 00	
		26 28
Which amount deducted, leaves a balance in the hands of the Public Treasurer, as Treasurer of the fund for Internal Improvement, on the 1st day of November, 1835, of - - - - - -		$21,249 31

All the disbursements made at the Treasury Department during the year, it is believed, are sustained by proper and appropriate vouchers; which will be found on file in the Comptroller's Office. The accuracy of the whole, will be tested by the examination of the Committee of Finance.

RECAPITULATION.

The foregoing statements show balances of cash on hand at the close of the business of the fiscal year, ending on the 31st of Oct. 1835, as follows, viz:

Amount as Public Treasurer, - - - -	$46,856 30
Ditto as Treasurer of Internal Improvement Fund, - -	21,249 31
Ditto as Treasurer of Literary Fund, - - - -	1,167 08
Making an aggregate amount of - - -	$69,272 69

With which the Public Treasurer, as such, and as Treasurer of the Literary and Internal Improvement Funds, stands charged on the books of this Department; and for which he is therefore accountable on the first day of Nov. 1835.

The foregoing amount is disposed of (as directed by law) in the following manner, to wit:

Amount deposited in the Bank of the State of North Carolina, at Raleigh, and remaining at the credit of the Public Treasurer on the 31st day of Oct. 1835, - - - - - - - - -	$59,632 31
Ditto ditto, in the Bank of Cape Fear, at Fayetteville, on the same day,	6,401 41
Worn Treasury Notes redeemed and in the vault of the Treasury,	3,100 23
Silver change and cash in the Treasury, - - - - -	138 74
Making a corresponding amount of - - - -	$69,272 69

It will be perceived, on reference to the foregoing Report, and on comparing the amount received on account of the *ordinary* revenue, for the year 1834, with the amount received from the same sources for the year 1833, as reported by the late Public Treasurer, that the former exceeds the latter by the sum of three thousand seven hundred and sixty-nine dollars and ninety-seven cents (3,769 97.) This increase in the Revenue of last year, derivable from taxation, has been owing principally to the fact, that under the fifth section of the revenue law of 1822, licences have been taken out in several of the principal towns of the State, for erecting and keeping up, under various names, public Gaming-tables, for playing games of chance—each of which is subject to the tax imposed by said section, of five hundred dollars. It seems not to have been discovered, until within the last year, that any other than a Billiard-table, was the subject of licence, by law—as none other has ever heretofore been licensed under the act referred to.—It becomes, therefore, a matter of grave inquiry, as a subject of great importance to the community, how far it is proper (if proper at all) to licence, or even tolerate, a species of vice evidently tending, in the most alluring forms, to corrupt the public morals, and to lower the standard of public virtue, merely for the purpose of aiding the common sources in replenishing the Treasury, from time to time, with the required amount of revenue.

The attention of the Legislature has been repeatedly called, by my predecessor, to the fact, that the ordinary revenue of the State has been gradually diminishing for a number of years. This fact is no less true now than heretofore; and, unless some mode is speedily devised, of correcting the abuses and fraudulent practices which have grown up under the present system, a resort to an increase of taxation must be the inevitable consequence. The importance of the subject imposes upon me the duty of respectfully asking the special attention of the Legislature to it at the present session. A table annexed to the Report from this department at the last session, and prepared with great care, exhibiting "comparative statements of the listing and assessment of property for taxation, in 1815, and 1833, with the nett tax accruing thereon," shows that the aggregate value of lands listed for taxation in the year 1815, was fifty-three millions five hundred and twenty-one thousand five hundred and thirteen dollars ($53,521,513)—while the aggregate value in 1833 was only forty-two millions nine hundred and sixteen thousand six hundred and thirty-three dollars ($42,916,633) showing a decrease in valuation, in the space of eighteen years, of eleven millions six hundred and four thousand eight hundred and eighty dollars ($11,604,880)—When to this fact is added another, that from the year 1815 to the year 1833, one million two hundred and forty-nine thousand seven hundred and fifty-eight acres of land, have been entered and patented, and the value of which has been taken into the aggregate value of the lands listed in 1833, the difference in the valuation at the periods referred to, will be greatly increased.

The defects of the present system of listing lands, are too numerous. and are too well known, to require particular specification in this report. A principal one, however, is believed to be the want of uniformity in affixing a proper value to the lands, when given in for taxation. The practice differs in almost every county, and frequently, in different parts of the same county; the effect is, that while the honest and conscientious land holder is made to pay a fair proportion of the burthen of supporting the government, his neighbor, who is less scrupulous, and whose conscience is more easily satisfied, pays just that proportion which he, voluntarily chooses to pay. Similar defects also exist, in the manner of giving in taxable polls; there being no mode pointed out for ascertaining the ages of either white or black polls, much is necessarily left to the honesty and discretion of those whose duty it is to list them for taxation.

Early in the month of January last, the President and directors of the Literary Fund, held a meeting, at which it was resolved, that the Public Treasurer, as Treasurer of that fund, should subscribe forthwith for as many shares of the reserved stock in the Bank of the State, as the funds on hand would pay for; and that he should, from time to time, as the means of the Literary Fund might accumulate, make such further subscriptions for stock as the accumulating fund would enable him to do. Under this resolution, as well as under the authority and direction of the 5th section of the act chartering the Bank, I subscribed on the 5th day of January last, in the name of the President and Directors of the Literary Fund, for two hundred and forty shares; on the 4th day of May, for one hundred and ten shares; on the 15th of July, for seventy-six shares; and on the 2nd of October, for forty shares: making in the whole, four hundred and sixty shares; which cost the sum of forty-seven thousand eight hundred and eighty-seven dollars and sixty-three cents, as will be seen by reference to the disbursements, made from the Literary Fund, enumerated under the proper head.

The State has now taken and paid for, of the six thousand shares of Stock, reserved by the charter, nineteen hundred and sixty-six—(sixteen hundred and sixty-six of which belong to the Literary Fund, and three hundred to the State)—leaving four thousand and thirty-four shares, yet to be subscribed: Of this number, the means of the Literary Fund accruing within the ensuing year, will probably pay for two-hundred and fifty, or perhaps three hundred. From this view of the subject, it will be seen that there will still be three thousand seven hundred shares, or upwards, unsubscribed for. It is a matter of regret, that the State has not had the means hitherto, of taking up the whole of the reserved stock; as the want of this additional capital has tended, in a great degree, to cramp the operations of the Bank, and consequently to curtail in a like proportion, those facilities and accommodations which would otherwise have been extended to the public. Since the adjournment of the last session, an additional branch of the Bank has been established at Fayetteville, which is intended, in some degree, to supply the place of the United States Branch Bank recently discontinued at that place; and should the Legislature make the necessary provision for paying in full for the remaining shares of stock reserved to the State, it would enable the Bank to establish other branches and agencies in sections of the State, not now supplied with capital; and thereby, to give increased facilities to the people in their agricultural and commercial pursuits.—The attention of the Legislature is respectfully invited to this, at their present session, —as the right of the State to take the shares yet unsubscribed for, will expire by the express limitation of the charter, on the first day of January, 1837.

It will be observed, upon reference to the state of receipts and expenditures for the last fiscal year, that the loan of forty thousand dolls. contemplated by the last Legislature, and authorized by a resolution of that body, has not been made. At an early period, after the adjournment of the last session, (believing that the loan would become necessary) I opened a correspondence with the Bank of Cape Fear, the Bank of the State, and the Bank of the United States, to ascertain upon what terms the loan could be had, in case the exigencies of the Treasury should require it: The terms proposed by each of these Institutions, were nearly the same—varying only in this particular: that the Bank of the State prposed to receive the re-imbursement of the money, at a time when it might suit the convenience of the State to make it, or in other words, that the Public Treasurer should be at liberty to fix the length of the periods for which the loan should be made. Determining, however, not to exercise the authority given me by the resolution, until driven to it by necessity, I refrained from taking any further steps in the matter, until by the timely declaration of dividends of capital made by the State Bank, and Bank of Newbern, on the shares owned by the State in each; the Treasury was so replenished as to remove entirely all necessity for further action upon the subject.—The sources, however, from which such opportune relief was brought to the Treasury, during the past year, are now nearly exhausted; and it has been determined by, the

State Bank, that no further dividend of capital shall be declared, until the expiration of the charter; at which time it is contemplated to make a dividend of the whole of its means, and bring its affairs to a final close, so that all hope of revenue from that quarter, will be cut off, until after the first day of January, 1838. What course the Bank of Newbern intends to pursue, in regard to the final close of its concerns, is not known to this department; no certain calculation, therefore, can be made on receiving aid from that source. It is perfectly evident, then, from every view of the present state of the Treasury, that a loan will be required at a very early period of the ensuing year. The amount necessary to be borrowed, will depend in a great degree, upon the circumstance, whether or not an additional appropriation shall be made, to continue the work upon the new Capitol, and to what amount? When that question is determined, some estimate may be formed as to the probable amount required.

Under a resolution passed at the last session of the General Assembly, directing the Public Treasurer to commence suits on all bonds given for Cherokee lands, on which one-fourth of the principal and interest due shall not be paid on or before the 1st day of December, 1835, I proceeded at an early period, after the adjournment of the last session, to notify every individual purchaser of the Cherokee lands, whose bonds remained unpaid, of the purport of the resolution referred to, and requested their immediate attention to the subject. I regret to say, that but very few of them have, as yet, availed themselves of its terms. It is alleged, however, by the members who represented the county of Macon, in the last Legislature, that an error has been committed in the enrollment of the resolution; that it should have been "1836," instead of "1835." I mention this circumstance for the purpose of directing your attention to the subject, as in the exent of no provision being made to the contrary, before the 1st day of December next, I shall feel it to be my duty to proceed under the resolution as it now exists.

Another clause of the resolution above mentioned, authorizes the Public Treasurer to institute an inquiry into the solvency of the Cherokee bonds now due; and if he should think proper, to commence suits on such of them as may be deemed doubtful; or permit them to be renewed under the provisions of the resolutions on that subject, passed in 1829. This enquiry has been instituted,—but the result is not yet satisfactorily ascertained. So soon as it shall be, I will endeavor to exercise the discretion, vested in me by the resolution, in such manner as will best promote the interest of the State.

By an act of the General Assembly, passed at the last session, entitled "An act directing the conveyance of the commons adjoining the town of Franklin to the Chairman of Macon County Court," it is made the duty of the Governor to cause a grant to be issued to the said Chairman and his successors in office, for the lands described, whenever he shall execute to the State bonds with security to the satisfaction of the Public Treasurer, for the payment of three dollars per acre, for each and every acre of said land, payable in four annual instalments. Under another provision of the act, a survey of the land has been made; and four several bonds, bearing date the 21st day of February, 1835, for the sum of two hundred and seventy-five dollars and twenty-five cents each, have been executed, as required by the Act, by the Chairman of Macon County Court, with security deemed ample by the Public Treasurer, and are now on file in this Department.

The statement marked C, accompanying this Report, will show the amount of Treasury Notes issued under the several acts of the Legislature on that subject; the amount at different times redeemed and burnt by the Committee of Finance; and the amount yet unredeemed. Of this latter amount, viz: $52,511 92, it is believed that at least two-thirds, perhaps three-fourths, have been lost or destroyed. Most of the bills which are now presented at the Treasury for redemption, are so exceedingly mutilated, as frequently to make it difficult even to tell their denomination, and almost impossible to detect those that are counterfeit, and those that are composed of various parts of bills arranged and pasted together. The withdrawal of so large an amount of change from circulation, within a few years, has produced serious inconvenience in the payment of small sums of money; which has not yet been overcome by the efforts of the Bank of the State, to furnish a sufficiency of specie-change for ordinary circulation. This inconvenience has been particularly felt in the transactions of this Department during the last year. Most of the Treasury bills now offered for redemption, are presented in small amounts, and not unfrequently in a single bill at a time. It is therefore respectfully suggested, whether the Public Treasurer should not be authorized to incur a small expense, to procure from the United States Mint, or elsewhere, an amount of specie-change sufficient to redeem these bills, and to facilitate the business of receiving and paying in this department generally.

The suits heretofore pending between the State and the Banks of Newbern and

Cape Fear, were decided at the last term of the Supreme Court, in favor of the Banks; for the grounds upon which the decision was made, I beg leave to refer to the report of the case itself.

The tax of twenty-five cents per share, for the last year, imposed by the amended charter, on the stock held by individuals in the Bank of Cape Fear, amounting to $797 50, has been paid; although the amount was not received until after the accounts for the fiscal year were closed.

A dividend of eleven per cent. has been declared for the year, ending on the first day of November, instant, on the stock held by the State in the Buncombe Turnpike Company, amounting to $550, which amount has also been received at this Office since the first of the present month.

Such Bank exhibits as have been received at this department, during the past year, are hereto annexed; and such others as may be received during the sitting of the Legislature, will be forthwith communicated.

The statements accompanying this Report (marked from A to H, inclusive) will be found to contain all the information on the subjects to which they relate, required to be furnished by the act regulating the Treasury Department.

In conclusion, it is deemed but an act of justice to the Sheriffs of the several counties, to state, that they have, with great promptness and punctuality, accounted for and paid into the Treasury, within the time prescribed by law, the whole amount of revenue with which they were chargeable. For this faithfulness in the discharge of their duty, they deserve the highest commendation.

All which is respectfully submitted.

SAM'L F. PATTERSON, *Pub. Treasurer.*

A.

Statement of Cash received in the Treasury, from the 31st day of Oct. 1834, to the 1st day of November, 1835, on additional returns of taxes:

Sheriffs.	Counties.	Tax due.	Amount paid.
			D. C.
Fielding Slater,	Rowan,	1833.	4 34
John J. Bryan,	Wilkes,	"	7 52
William Crawford, (late)	Richmond,	"	48 69
Thomas Pasteur,	Craven,	"	73 24
Thomas Lea,	Caswell,	"	41 91
Henry S. Spencer,	Hyde,	"	23 71
William Carson,	Rutherford,	"	36 25
Nathaniel Harrison, (late)	Buncombe,	"	82 41
Richard G. Cowper,	Hertford,	"	17 94
James H. Wood,	Northampton,	"	30 77
John McLean.	Cumberland,	"	17 63
George Cromartie, (late)	Bladen,	"	20 63
Howell Albritton,	Pitt,	"	8 19
John A. Barnet,	Person,	"	11 06
Lewis Bond, (late)	Bertie,	"	4 20
			428 19

B.

Statement of Cash received in the Treasury on the Bonds due on account of sales of Cherokee Lands, from 31st of October, 1834, to the 1st November, 1835, belonging to the Fund for Internal Improvement.

Date.	From whom received.	Bonds paid.	Principal.	Interest.	Total.
1834.			D. C.	D. C.	D. C.
Nov. 21	John Latham	full 1st, 2d	26 50	15 43	41 93
"	Ely Ritchey	do 3, prt. 4	15 63	6 37	22 00
"	Humphrey Posey	part 4th	98 20	21 80	120 00
Dec. 17	Humphrey Posey	full 3d, 4th	26 99	147 37	174 36
"	James Shearer	part 3d	19 00	5 64	24 64
30	John Addington	full 3d, 4th	48 91	25 75	74 66
"	Lincoln Fullum	part 4th	52 00		52 00
1835.					
Jan'y. 2	John Redmond	full 4th	11 93	9 32	21 30
"	Joseph E. Bell	do 4th		14 47	14 47
6	Jonathan Coward	part 4th	24 77	25 23	50 00
"	Lincoln Fullum	part 3d	40 00		40 00
9	R. Love and J. Moore	full 1st	66 75	20 47	87 22
"	do do	do 2d	133 50	40 05	173 55
"	do do	do 3d	133 50		133 50
June 4	Margaret Welch	do 1st		54 02	54 02
10	Joseph Welch	do 2, 3, 4	415 50	174 81	590 31
"	Michael Wickle	do 4th	16 11	46 63	62 74
Sept. 16	Jacob Palmer	do 4th	25 01	23 46	48 47
"	John Cutcher	do 3d	10 6¾	5 45	16 07¾
"	do	do 4th	19 46¼	14 46	33 92¼
			1184 44	650 73	1835 17

C.

Statement of Treasury Notes issued and reported to the Comptroller, and put in circulation, according to the Acts of Assembly of 1814, 1816, and 1823.

Amount issued under the Act of 1814	- - -		$82,000 00
do do do 1816	- - -		80,000 00
do do do 1823	- - -		100,000 00
			262,000 00
Amount burnt by the Committee of Finance, according to the Comptroller's Report of 1819	-	943 34	
do do 1821	-	7,710 00	
do do 1822	-	9 784 52	
do do 1823	-	6,310 51¼	
do do 1824	-	5,696 25	
do do 1825	-	12,170 89	
do do 1826	-	15,592 46	
do do 1827	-	15,523 98	
do do 1827	-	9 303 76	
do do 1828	-	17.781 89	
do do 1829	-	19,971 85	
do do 1830	-	21,601 91	
do do 1831	-	29,811 77	
do do 1832	-	18,681 38¾	
do do 1833	-	10,565 41	
do do 1834	-	5,138 22	
			206,387 85
			55,612 15
Deduct amount on hand in the vault of the Treasury,	-		3,100 23
Showing balance unredeemed, and in circulation, of			$52,511 92

D.

Statement showing the number of Shares of Bank Stock owned by the State of North Carolina, and by the President and Directors of the Literary Fund, 1st November, 1835.

Shares of Stock in the Bank of the State of North Carolina, held in the name of the State of North Carolina,	300	
Shares of Stock owned by the President and Directors of the Literary Fund,	1,666	
		1,966
Do Stock in the Bank of Cape Fear owned by the State, and dividends unappropriated,	10	
Do dividends appropriated to the Fund for Internal Improvement,	1,358	
Do owned by the President and Directors of the Literary Fund, and purchased with cash belonging to that Fund,	50	
Do dividends appropriated to the Literary Fund,	704	
		2,122
Do Shares of Stock in the Bank of Newbern, owned by the State, and dividends unappropriated,	155	
Do do dividends appropriated to the Fund for Internal Improvement,	1,304	
Do do dividends appropriated to the Literary Fund,	359	
Do do owned by the President and Directors of the Literary Fund, and purchased with the cash belonging to that Fund,	141	
		1,959
Do Shares of Stock in the State Bank of North Carolina, owned by the State, and dividends unappropriated,	2,768	
Do owned by the President and Directors of the Literary Fund, and purchased with the cash belonging to that Fund,	282	
		3,050
Aggregate number of Shares		9,097

The State has received on the Stock of the State Bank of North Carolina, the following dividends of the capital, viz:

One dividend of	$50	per share.
" ditto "	20	" "
" " "	10	" "
" " "	8	" "
Total capital received of State Bank,	$88	per share.

On the Stock of the Bank of Newbern:

One dividend of	$25	per share.
" " "	20	" "
" " "	10	" "
" " "	15	" "
Total capital received of Bank of Newbern,	$70	per share.

E.

Statement of the nett produce of the different branches of Revenue, and the amount of cash received thereon into the Public Treasury, from the 31st day of Oct. 1834, to the first of November, 1835.

Branches of Revenue.	Amount.	Aggregate
	D C	D C
Tax on land	23,259 75	
" " Town property	1,539 98	
" " Polls	28,284 52	
" " Stud horses	1,528 71	
" " Gates	117 50	
" " Stores	9,352 06	
" " Pedlars	3,219 50	
" " Artificial curiosities	733 20	
" " Natural do	267 90	
" " Billiard-tables and tables of chance	3,290	
" " Brokers and Lottery Offices	376	
" " Penalty for failing to comply with act of 1834.	200	
BANK TAX.		72,169 12
Bank of the State	2,250	
BANK DIVIDENDS.		
Buncombe turnpike company, dividend on stock,	650	
Bank dividends on unappropriated stock,	6,381	
Dividend of State Bank stock,	22,144	
Dividend on Bank of Newbern stock,	18,180	
Dividend of Bank of Newbern stock,	27,270	
Cash received from Bank of the State of N. C. for interest on advanced payments of stock in said Bank held by the State,	621 38	
Cash received for the rent of public land,	10	
" from Henry H. Cooke, on his bond,	213 06	
" from Richard D. Spaight,	6	
" from Dr. Rufus Haywood, for his bond,	215	
		77,940 44
Aggregate amount, received on account of public fund,	- - -	150,109 56
LITERARY FUND.		
Amount received for Bank Dividends of profit	11,892	
" Cape Fear Navigation, dividends No, 10 and 11,	1,216 14	
" Dividend of State Bank stock,	2,256	
" " of Bank of Newbern stock,	3,525	
" Received of the Bank of the State of N. C. for interest on advanced payments of stock in said Bank,	3,200 56	
" Tavern tax for the year 1834,	2,492 88	
" Auction tax " " 1834 and 1835,	546 84	
" Entries of vacant land for 1835,	4,541 30	
Aggregate amount of Literary Fund,		29,670 72
INTERNAL IMPROVEMENT FUND,		
Amount of dividends on stock, appropriated to Internal Improvements,	12,901	
" on Cherokee bonds,	1,835 17	
Aggregate amount of Internal Improvement Fund,		14,736 17
Aggregate amount received on account of Public Fund, Literary Fund, and Fund for Internal Improvement,		194,516 45

F.

Statement of Insolvents allowed by the Comptroller to the Sheriffs in their settlement of the Taxes of 1834.

Sheriffs.	Counties.	No. Polls.	Amount.
			D. C.
William Thompson, Sheriff	Wayne	65	13 00
George Hoover	Randolph	6	1 20
Fielding Slater	Rowan	193	38 60
William G. Jones	Warren	79	15 80
John B. Dawson	Craven	211	42 20
James Simmons	Halifax	170	34 00
Joseph M'Connaughey	Mecklenburg	98	19 60
Paschal B. Burt	Wake	106	21 20
William B. Cole	Richmond	56	11 20
James Truit	Macon	31	6 20
William Carson	Rutherford	166	33 20
Thomas Wilson	Yancy	14	2 80
James R. Riddick	Gates	75	15 00
Joshua A. Pool	Pasquotank	43	8 60
William D. Rascoe	Chowan	24	4 80
James Long	Perquimons	49	9 80
John M'Lean	Cumberland	78	15 60
Richard G. Cowper	Hertford	106	21 20
James H. Wood	Northampton	99	19 80
Martin Roberts	Rockingham	99	19 80
Risden M. M'Daniel	Jones	23	4 60
John D. Bennett	Washington	18	3 60
John W. Taylor	Green	36	6 60
James W. Doan	Guilford	92	18 40
Gustin Perry	Franklin	123	24 60
William Kennedy	Davidson	56	11 20
Salathiel Stone	Stokes	101	20 20
Isaac Baxter	Currituck	28	5 60
Howell Albritton	Pitt	75	15 00
William D. Petway	Edgecomb	91	18 20
Joseph M. Bogle	Iredell	95	19 00
Peter Harrell	Onslow	17	3 40
Hampton B. Hammond	Anson	111	22 20
Absalom Fulford	Carteret	45	9 00
Enos Rutledge	Surry	75	15 00
John J. Bryan	Wilkes	41	8 20
Horace D. Bridges	Chatham	165	33 00
Allen S. Ballenger	Johnston	52	10 40
		3009	601 80