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REVISED STATUTES

OF THE

STATE OF NORTH CAROLINA.



THE
REVISED STATUTES
OF
THE STATE OF NORTH CAROLINA,

PASSED BY THE

GENERAL ASSEMBLY AT THE SESSION OF 1836—7,

INCLUDING

AN ACT CONCERNING THE REVISED STATUTES AND OTHER PUBLIC ACTS,

PASSED AT THE SAME SESSION ;

TOGETHER WITH

THE SECOND CHARTER GRANTED BY CHARLES THE 2^d TO THE PROPRIETORS OF CAROLINA—THE GREAT DEED
OF GRANT FROM THE LORDS PROPRIETORS—THE GRANT FROM GEORGE THE 2^d TO JOHN LORD
GRANVILLE—THE BILL OF RIGHTS AND CONSTITUTION OF THE STATE, WITH THE
AMENDMENTS THERETO—THE CONSTITUTION OF THE UNITED STATES,
WITH THE AMENDMENTS—THE TREATY OF PEACE OF 1783—THE
MECKLENBURG DECLARATION OF INDEPENDENCE,
WITH A SHORT NARRATIVE THEREOF.

Revised under an Act of the General Assembly, passed at the Session of 1833—4, by
FREDERICK NASH, JAMES IREDELL AND WILLIAM H. BATTLE.

PRINTED AND PUBLISHED,
In pursuance of an Act of the General Assembly, passed at the Session of 1836—7, under the supervision and direction of
JAMES IREDELL AND WILLIAM H. BATTLE.

IN TWO VOLUMES.

VOLUME II.

University Library, N. C.

RALEIGH:
PUBLISHED BY TURNER AND HUGHES.
1837.

BOSTON.....TUTTLE, DENNETT & CHISHOLM.....PRINTERS.....17 SCHOOL STREET.

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1837

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CONTENTS

OF

THE SECOND VOLUME.

SECOND Charter of King Charles the Second to the Lords Proprietors of Carolina, - - - - -	1
Great Deed of Grant from the Lords Proprietors, - - - - -	13
Grant from King George the Second to Earl Granville, - - - - -	15
Treaty of Peace between America and Great Britain, - - - - -	31
Bank Charters, - - - - -	37
Boundary of the State, - - - - -	82
Boundaries of Counties, - - - - -	97
Cessions to the United States, - - - - -	171
Cherokee Lands, - - - - -	188
Manufactures—Silk and Sugar, - - - - -	214
Navigation Companies, - - - - -	217
Rail Road Companies, - - - - -	275
Seat of Government, - - - - -	415
Turnpike Companies, - - - - -	418
University of North Carolina, - - - - -	424
First Charter of King Charles the Second to the Lords Proprietors of Carolina, - - - - -	437
Fundamental Constitutions of Carolina, - - - - -	449
Act for establishing an Agreement with seven of the Lords Proprietors of Carolina, for the Surrender of their title and interest in that Province, to his Majesty King George the Second, - - - - -	466
Magna Carta of King John, - - - - -	480
Magna Carta of King Edward the First, - - - - -	493

Petition of Rights presented to King Charles the First, with the King's Reply, - - - - -	501
Bill of Rights passed 1 William and Mary, - - - - -	505
Articles of Confederation, - - - - -	510
Weldon Toll Bridge Company, - - - - -	518
A Short Notice of the Early History of North Carolina, with a List of the Governors under the Proprietary, Regal and Present Government, -	522
A Sketch of the Judicial History of North Carolina, with a List of the Judges and Attorney Generals since the Adoption of the Consti- tution, - - - - -	527
INDEX, - - - - -	533

THE
SECOND CHARTER

GRANTED

BY KING CHARLES THE SECOND,
TO THE
PROPRIETORS OF CAROLINA,

DATED THE THIRTIETH DAY OF JUNE, IN THE SEVENTEENTH
YEAR OF HIS REIGN, A. D., 1667. 5

CHARLES the Second, by the grace of God, of Great Britain, France and Ireland, King, Defender of the Faith, &c. WHEREAS, by our letters patent, bearing date the twentyfourth day of March, in the fifteenth year of our reign, we were graciously pleased to grant unto our right trusty and right well-beloved cousin and counsellor Edward Earl of Clarendon, our high chancellor of England; our right trusty and entirely beloved cousin and counsellor George Duke of Albemarle, master of our horse; our right trusty and well-beloved William now Earl of Craven; our right trusty and well-beloved counsellor John Lord Berkeley; our right trusty and well-beloved counsellor Anthony Lord Ashley, chancellor of our exchequer; our right trusty and well-beloved counsellor Sir George Carteret, knight and baronet, vice-chancellor of our household; our right trusty and well-beloved Sir John Colleton, knight and baronet; and Sir William Berkeley, knight; all that province, territory, or tract of ground, called Carolina, situate, lying and being within our dominions of America; extending from the north end of the island called Luke Island, which lieth in the southern Virginia seas, and within thirtysix degrees of north latitude; and to the west, as far as the south seas; and so respectively as far as the river of Matthias, which bordereth upon the coast of Florida, and within thirtyone degrees of northern latitude; and so west, in a direct line, as far as the south seas aforesaid.

Former letters patent of Carolina.

Within 31 and 36 degrees of north latitude, and west to the south sea.

Now know ye, That we, at the humble request of the said grantees, in the aforesaid letters patent named, and as a further mark of our especial favour to them, we are graciously pleased to enlarge our said grant unto them, according to the bounds and limits hereafter specified, and in favour to the pious and noble purpose of the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley; Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir Wil-

Bounds enlarged so as to extend from 29 deg. to 36 deg. 30 m. N. lat.

liam Berkeley, their heirs and assigns, all that province, territory or tract of land, situate, lying and being within our dominions of America aforesaid ; extending north and eastward, as far as the north end of Currituck river or inlet, upon a strait westerly line to Wyonoak creek, which lies within or about the degrees of thirty-six and thirty minutes, northern latitude ; and so west, in a direct line, as far as the south seas ; and south and westward, as far as the degrees of twentynine, inclusive, of northern latitude ; and so west, in a direct line, as far as the south seas ; together with all and singular the ports, harbours, bays, rivers and inlets, belonging unto the province or territory aforesaid ; and also, all the soils, lands, fields, woods, mountains, fermes, lakes, rivers, bays and islets, situate or being within the bounds or limits last before mentioned ; with the fishings of all sorts of fish, whales, sturgeons, and all other royal fish in the sea, bays, islets and rivers, within the premises, and the fish, therein taken, together with the royalty of the sea upon the coast within the limits aforesaid ; and moreover all veins, mines and quarries, as well discovered as not discovered, of gold, silver, gems and precious stones, metal, or any other thing, found, or to be found, within the province, territory, islets and limits aforesaid ; and furthermore, the patronage and advowsons of all the churches and chapels, which, as Christian religion shall increase within the province, territory, isles and limits aforesaid, shall happen hereafter to be erected ; together with license and power to build and found churches, chapels and oratories, in convenient and fit places, within the said bounds and limits ; and to cause them to be dedicated and consecrated, according to the ecclesiastical laws of our kingdom of England ; together with all and singular the like and as ample rights, jurisdictions, privileges, prerogatives, royalties, liberties, immunities, and franchises of what kind soever, within the territory, isles, islets and limits aforesaid : to have, hold, use, exercise, and enjoy the same, as amply, fully and in as ample manner, as any Bishop of Durham, in our kingdom of England, ever heretofore had, held, used, or enjoyed, or of right ought or could have, use, or enjoy : and them the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, their heirs and assigns, we do, by these presents, for us, our heirs and successors, make, create, and constitute, the true and absolute lords and proprietors of the said province or territory, and of all other the premises ; saving always the faith, allegiance, and sovereign dominion, due to us, our heirs and successors, for the same : to hold, possess, and enjoy the said province, territory, islets, and all and singular other the premises, to them the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, their heirs and assigns forever ; to be holden of us, our heirs and successors, as of our manor of East Greenwich, in Kent, in free and common socage, and not

To hold and enjoy as amply as any Bishop of Durham.

To be held of the king as of the manor of E. Greenwich, in free and common socage.

in capite, or by knight's service : yielding and paying, yearly, to us, our heirs and successors, for the same, the fourth part of all gold and silver ore, which, within the limits hereby granted, shall, from time to time, happen to be found, over and besides the yearly rent of twenty marks, and the fourth part of the gold and silver ore, in and by the said written letters patent reserved and payable.

And that the province or territory hereby granted and described, may be dignified with as large tythes and privileges, as any other parts of our dominions and territories in that region : Know ye, That we, of our further grace, certain knowledge, and mere motion, have thought fit to annex the same tract of ground or territory unto the same province of Carolina ; and out of the fullness of our royal power and prerogative, we do, for us, our heirs and successors, annex and unite the same to the said province of Carolina.

And forasmuch as we have made and ordained the aforesaid Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, their heirs and assigns, the true lords and proprietors of all the province or territory aforesaid ; Know ye therefore moreover, That we, reposing especial trust and confidence in their fidelity, wisdom, justice, and provident circumspection, for us, our heirs and successors, do grant full and absolute power, by virtue of these presents, to them the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, their heirs and assigns, for the good and happy government of the said whole province or territory, full power and authority, to erect, constitute, and make several counties, baronies, and colonies, of and within the said provinces, territories, lands, and hereditaments, in and by the said letters patent, granted, or mentioned to be granted, as aforesaid, with several and distinct jurisdictions, powers, liberties, and privileges : and also, to ordain, make, and enact, and under their seals, to publish any laws and constitutions whatsoever, either appertaining to the public state of the whole province or territory, or of any distinct or particular county, barony, or colony, or of or within the same, or to the private utility of particular persons, according to their best directions, by and with the advice, assent and approbation, of the freemen of the said province or territory, or of the freemen of the county, barony, or colony, for which such law or constitution shall be made, or the greater part of them, or of their delegates or deputies, whom, for enacting of the said laws, when, and as often as need shall require, we will, that the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, and their heirs or assigns, shall, from time to time, assemble in such manner and form as to them shall seem best ;

To call assemblies.

and the same laws duly to execute, upon all people within the said province or territory, county, barony, or colony, or the limits thereof, for the time being, which shall be constituted, under the power and government of them or any of them, either sailing towards the said province, or territory of Carolina, or returning from thence towards England, or any other of our or foreign dominions, by imposition of penalties, imprisonment, or any other punishment; yea, if it shall be needful, and the quality of the offence require it, by taking away member and life, either by them the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, and their heirs or by them, or their deputies, lieutenants, judges, justices, magistrates, or officers, whatsoever, as well within the said province, as at sea, in such manner and form as unto the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, and their heirs, shall seem most convenient: and also, to remit, release, pardon, and abolish, whether before judgment or after, all crimes and offences whatsoever against the said laws; and to do all and every thing and things, which, unto the complete establishment of justice, unto courts, sessions, and forms of judicature, and manners of proceeding therein, do belong, although in these presents express mention is not made thereof; and by judges to him or them delegated, to award process, hold pleas, and determine, in all the said courts and places of judicature, all actions, suits, and causes whatsoever, as well criminal as civil, real, mixt, personal, or of any other kind or nature whatsoever: which laws so as aforesaid to be published, our pleasure is, and we do enjoin, require, and command, shall be absolutely firm and available in law; and that all the liege people of us, our heirs and successors, within the said province or territory, do observe and keep the same inviolably in those parts, so far as they concern them, under the pains and penalties therein expressed, or to be expressed:

To grant pardons, &c.

By Judges to hold pleas, &c.

Laws to be consonant to reason and as near as may be to the laws of England.

Till assemblies called, proprietors to make the laws.

Provided nevertheless, That the said laws be consonant to reason, and as near as may be conveniently, agreeable to the laws and customs of this our realm of England.

And because such assemblies of freeholders cannot be so suddenly called as there may be occasion to require the same, we do therefore, by these presents, give and grant unto the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, their heirs and assigns, by themselves, or their magistrates, in that behalf lawfully authorised, full power and authority, from time to time, to make and ordain fit and wholesome orders and ordinances within the province or territory aforesaid, or any county, barony, or province, within the same, to be kept and observed, as well for the keeping of the peace, as for the better government of the people there abiding, and to publish the same to all whom it may

concern : which ordinances we do, by these presents, straitly charge and command to be inviolably observed within the same province, counties, territories, baronies and provinces, under the penalties therein expressed ; so as such ordinances be reasonable, and not repugnant or contrary, but as near as may be, agreeable to the laws and statutes of this our kingdom of England ; and so as the same ordinances do not extend to the binding, charging, or taking away the right or interest of any person or persons, in their freehold, goods, or chattels, whatsoever.

And to the end the said province or territory may be the more happily increased, by the multitude of people resorting thither, and may likewise be the more strongly defended from the incursions of savages, and other enemies, pirates and robbers ; therefore, we, for us, our heirs and successors, do give and grant, by these presents, full power, license and liberty, unto all the liege License for liege people to settle. people of us, our heirs and successors, in our kingdom of England, and elsewhere, within any other our dominions, islands, colonies, or plantations, (excepting those who shall be especially forbidden) to transport themselves and families into the said province or territory, with convenient shipping and fitting provision ; and there to settle themselves, dwell, and inhabit : any law, act, statute, ordinance, or other thing, to the contrary, notwithstanding.

And we will also, and of our especial grace, for us, our heirs and successors, do straitly enjoin, ordain, constitute, and command, that the said province and territory shall be of our allegiance ; and that all and singular the subjects and liege people of us, our heirs and successors, transported, or to be transported into the said province, and the children of them, and such as shall descend from them there born, or hereafter to be born, be, and shall be denizens and lieges of us, our heirs and successors, of this our kingdom of England, and be in all things, held, treated and reputed, as the liege, faithful people of us, our heirs and successors, born within this our said kingdom, or any other of our dominions ; and may inherit or otherwise purchase and receive, take, hold, buy and possess, any lands, tenements, or hereditaments, within the said places, and them may occupy and enjoy, sell, alien, and bequeath ; as likewise, all liberties, franchises, and privileges, of this our kingdom, and of other our dominions aforesaid, may freely and quietly have, possess, and enjoy, as our liege people, born within the same, without the molestation, vexation, trouble, or grievance, of us, our heirs and successors : any act, statute, ordinance, or provision, to the contrary, notwithstanding.

The subjects and their children to be denizens and lieges.

And furthermore, that our subjects of this our said kingdom of England, and other our dominions, may be the rather encouraged to undertake this expedition, with ready and cheerful means ; Know ye, that we of our especial grace, certain knowledge, and mere motion, do give and grant, by virtue of these presents, as well to the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, and their heirs, as unto all others as shall, from

License to
transport goods
paying customs
and duties.

time to time, repair unto the said province or territory, with a purpose to inhabit there, or to trade with the natives thereof; full liberty and license, to lade and freight, in every port whatsoever, of us, our heirs and successors, and into the said province of Carolina, by them, their servants and assigns, to transport all and singular their goods, wares and merchandises; as likewise all sorts of grain whatsoever, and any other thing whatsoever, necessary for their food and clothing, not prohibited by the laws and statutes of our kingdom and dominions, to be carried out of the same, without any let or molestation of us, our heirs and successors, or of any other our officers or ministers whatsoever; saving also unto us, our heirs and successors, the customs, and other duties and payments, due for the said wares and merchandises, according to the several rates of the places from whence the same shall be transported.

To import into
England, &c.

We will also, and by these presents, for us, our heirs and successors, do give and grant license by this our charter, unto the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, and their heirs and assigns, and to all the inhabitants and dwellers in the province or territory aforesaid, both present and to come, full power and absolute authority, to import or unlade, by themselves or their servants, factors, or assigns, all merchandises and goods whatsoever that shall arise of the fruits and commodities of the said province or territory, either by land or sea, into any the ports of us, our heirs and successors, in our kingdom of England, Scotland, or Ireland, or otherwise to dispose of the said goods in the said ports; and, if need be, within one year next after the unlading, to lade the said merchandises and goods again into the same or other ships; and to export the same into any other countries, either of our dominions or foreign, being in amity with us, our heirs and successors, so as they pay such customs, subsidies and other duties, for the same, to us, our heirs and successors, as the rest of our subjects of this our kingdom, for the time being, shall be bound to pay; beyond which, we will not, that the inhabitants of the said province or territory shall be any ways charged: *Provided, nevertheless*, and our will and pleasure is, and we have further, for the considerations aforesaid, of our especial grace, certain knowledge, and mere motion, given and granted, and by these presents, for us, our heirs and successors, do give and grant unto the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, their heirs and assigns, full and free license, power and authority, at any time or times, from and after the feast of St. Michael the Archangel, which shall be in the year of our Lord Christ one thousand six hundred and sixty-seven, as well to import and bring into any of our dominions, from the said province of Carolina, or any part thereof, the several goods hereinafter mentioned; that is to say, silks, wines, raisins,

capers, wax, almonds, oil, olives, without paying or answering to us, our heirs and successors, any custom, impost, or other duty, for or in respect thereof, for and during the term and space of seven years, to commence and be accounted from and after the importation of four tons of any of the said goods, in any one bottom, ship, or vessel, from the said province or territory, into any of our dominions; as also, to export, and carry out of any of our dominions, into the said province or territory, custom free, all sorts of tools which shall be useful or necessary for the planters there, in the accommodation and improvement of the premises: any thing before in these presents contained, or any law, act, statute, prohibition, or other matter or thing, heretofore had, made, enacted, or provided, in any wise notwithstanding.

And furthermore, of our more ample and especial grace, certain knowledge, and mere motion, we do, for us, our heirs and successors, grant unto the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, their heirs and assigns, full and absolute power and authority, to make, erect, and constitute, with-
To erect sea ports, &c.
 in the said province or territory, and the isles and islets aforesaid, such and so many sea-ports, harbors, creeks, and other places, for discharge and unloading of goods and merchandises, out of ships, boats and other vessels, and for lading of them, in such and so many places, with such jurisdictions, and privileges and franchises, unto the said ports belonging, as to them shall seem most expedient, and that all and singular the ships, boats and other vessels, which shall come for merchandises and trade into the said province or territory, or shall depart out of the same, shall be laden and unladen at such ports only as shall be erected and constituted by the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, their heirs and assigns, and not elsewhere: any use, custom, or thing, to the contrary notwithstanding.

And we do further will, appoint, and ordain, and by these presents, for us, our heirs, and successors, do grant unto the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, and their heirs and assigns, that they the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, their heirs and assigns, may, from time to time, forever, have and enjoy the customs and subsidies, in the ports, harbors, creeks, and other places within the province aforesaid, payable for the goods, wares and merchandises there laded, or to be laded or unladed; the said customs to be reasonably assessed, upon any occasion, by themselves, and by and with the consent of the free people, or the greater part of them, as aforesaid; to whom we give power, by these presents,
The Lords Proprietors may have the customs, &c.

for us, our heirs and successors, upon just cause, and in due proportion, to assess and impose the same.

Lords Proprietors have power to alien to such as they think fit, to be held of them.

License to such to have and take.

The statute quia emptores.

And further, of our especial grace, certain knowledge, and mere motion, we have given, granted and confirmed, and by these presents, for us, our heirs and successors, do give, grant and confirm, unto the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, their heirs and assigns, full and absolute power, license and authority, that they, the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, their heirs and assigns, from time to time hereafter, forever, at his and their will and pleasure, may assign, alien, grant, demise, or enfeoff, the premises, or any part or parcel thereof, to him or them that shall be willing to purchase the same, and to such person and persons as they shall think fit; to have and to hold to them, the said person or persons, their heirs and assigns, in fee simple, or in fee-tail, or for term of life or lives, or years; to be held of them the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, their heirs and assigns, by such rents, services and customs as shall seem fit to them the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, their heirs and assigns, and not of us our heirs and successors: and to the same person and persons, and to all and every of them, we do give and grant, by these presents, for us, our heirs and successors, license, authority and power, that such person or persons may have and take the premises, or any part thereof, of the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, their heirs and assigns, and the same to hold to themselves, their heirs and assigns, in what estate of inheritance soever, in fee-simple, or fee-tail or otherwise, as to them the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, their heirs or assigns, shall seem expedient; the statute in the parliament of Edward, son of King Henry, heretofore King of England, our predecessor, commonly called the statute of *quia emptores terrarum*, or any other statute, act, ordinance, use, law, custom, or any other matter, cause or thing, heretofore published or provided to the contrary, in any-wise notwithstanding.

And because many persons, born and inhabiting in the said province, for their deserts and services, may expect and be capable of marks of honor and favor, which, in respect of the great

distance, cannot be conveniently conferred by us ; our will and pleasure therefore is, and we do by these presents, give and grant unto the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, and their heirs and assigns, full power and authority, to give and confer unto and upon such of the inhabitants of the said province or territory, as they shall think do or shall merit the same, such marks of favor and titles of honor, as they shall think fit ; so as their titles or honors be not the same as are enjoyed by or conferred upon any of the subjects of this our kingdom of England. To grant titles of honor.

And further also, we do, by these presents, for us, our heirs, and successors, give and grant license to the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, and their heirs and assigns, full power, liberty and license, to erect, raise and build, within the said province and places aforesaid, or any part or parts thereof, such and so many forts, fortresses, castles, cities, boroughs, towns, villages, and other fortifications whatsoever ; and the same, or any of them, to fortify and furnish with ordnance, powder, shot, armour, and all other weapons, ammunition, and habiliments of war, both defensive and offensive, as shall be thought fit and convenient, for the safety and welfare of the said province and places, or any part thereof ; and the same or any of them, from time to time, as occasion shall require, to dismantle, disfurnish, demolish and pull down : and also to place, constitute and appoint, in or over all or any of the said castles, forts, fortifications, cities, towns, and places aforesaid, governors, deputy-governors, magistrates, sheriffs, and other officers, civil and military, as to them shall seem meet ; and to the said cities, boroughs, towns, villages, or any other place or places, within the said province or territory, to grant letters or charters of incorporation, with all liberties, franchises, and privileges, requisite or usual, or to or within this our kingdom of England granted or belonging ; and in the same cities, boroughs, towns, and other places, to constitute, erect and appoint such and so many markets, marts, and fairs, as shall, in that behalf, be thought fit and necessary : and further also, to erect and make in the province or territory aforesaid, or any part thereof, so many manors, with such seignories as to them shall seem meet and convenient ; and in every of the same manors to have and to hold a court-baron, with all things whatsoever which to a court-baron do belong ; and to have and to hold views of frank-pledge and court-leets, for the conservation of the peace and better government of those parts, with such limits, jurisdictions and precincts, as by the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, or their heirs shall be appointed for that purpose, with Build forts, &c.
Grant charters of incorporation.
Erect markets and manors.

all things whatsoever which to a court-leet, or view of frank-pledge, do belong ; the same courts to be holden by stewards, to be deputed and authorised by the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, or their heirs, by the lords of the manors and leets, for the time being, when the same shall be erected.

And because that in so remote a country, and situate among so many barbarous nations, the invasions of savages and other enemies, pirates and robbers, may probably be feared ; therefore, we have given, and for us, our heirs and successors, do give power by these presents, unto the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, their heirs or assigns, by themselves, or their captains, or other officers, to levy, muster and train up all sorts of men, of what condition soever, or where-soever born, whether in the said province, or elsewhere, for the time being ; and to make war, and pursue the enemies aforesaid, as well by sea, as by land ; yea, even without the limits of the said province, and, by God's assistance, to vanquish and take them ; and being taken, to put them to death, by the law of war, and to save them at their pleasure, and to do all and every other thing, which to the charge and office of a captain-general of an army, hath had the same.

To muster all,
and to make
war, &c.

Also, our will and pleasure is, and by this our charter, we do give and grant unto the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, their heirs and assigns, full power, liberty and authority, in case of rebellion, tumult, or sedition (if any should happen, which God forbid) either upon the land within the province aforesaid, or upon the main sea, in making a voyage thither, or returning from thence, by him and themselves, their captains, deputies, or officers, to be authorised under his or their seals, for that purpose ; to whom also, for us, our heirs and successors, we do give and grant, by these presents, full power and authority, to exercise martial law against any mutinous and seditious persons of these parts ; such as shall refuse to submit themselves to their government, or shall refuse to serve in the war, or shall fly to the enemy, or forsake their colors or ensigns, or be loiterers, or stragglers, or otherwise offending against law, custom, or military discipline ; as freely and in as ample manner and form, as any captain-general of an army, by virtue of his office, might or hath accustomed to use the same.

To exercise
martial law.

And our further pleasure is, and by these presents, for us, our heirs and successors, we do grant unto the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, their heirs

and assigns, and to the tenants and inhabitants of the said province or territory, both present and to come, and to every of them, that the said province or territory, and the tenants and inhabitants thereof, shall not, from henceforth, be held or reputed any member or part of any colony whatsoever in America, or elsewhere, now transported or made, or hereafter to be transported or made; nor shall be depending on, or subject to their government in any thing, but be absolutely separated and divided from the same; and our pleasure is, by these presents, that they be separated, and that they be subject immediately to our crown of England, as depending thereof, forever: and that the inhabitants of the said province or territory, nor any of them, shall, at any time hereafter, be compelled, or compellable, or be any ways subject or liable to appear or answer to any matter, suit, cause or plaint whatsoever, out of the province or territory aforesaid, in any other of our islands, colonies, or dominions in America, or elsewhere, other than in our realm of England, and dominions of Wales.

To be separate from all other colonies.

Not to answer elsewhere than in England.

And because it may happen that some of the people and inhabitants of the said province cannot, in their private opinions, conform to the public exercise of religion, according to the liturgy, forms and ceremonies of the church of England, or take and subscribe the oaths and articles made and established in that behalf; and for that the same, by reason of the remote distances of those places, will, as we hope, be no breach of the unity and conformity established in this nation; our will and pleasure therefore is, and we do, by these presents, for us, our heirs and successors, give and grant unto the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, their heirs and assigns, full and free license, liberty and authority, by such ways and means as they shall think fit, to give and grant unto such person and persons, inhabiting and being within the said province or territory, hereby, or by the said recited letters patent mentioned to be granted as aforesaid, or any part thereof, such indulgences and dispensations, in that behalf, for and during such time and times, and with such limitations and restrictions, as they the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, their heirs or assigns, shall, in their discretion, think fit and reasonable: and that no person or persons unto whom such liberty shall be given, shall be any way molested, punished, disquieted, or called in question, for any differences in opinion, or practice in matters of religious concerns, who do not actually disturb the civil peace of the province, county or colony, that they shall make their abode in: but all and every such person and persons may, from time to time, and at all times, freely and quietly have and enjoy his and their judgments and consciences, in matters of religion, throughout all the said province or colony, they behaving themselves peaceably, and not using this liberty to licentiousness,

Indulgence to non-conformists.

nor to the civil injury, or outward disturbance of others ; any law, statute or clause, contained or to be contained, usage or custom of our realm of England, to the contrary hereof, in any wise, notwithstanding.

Interpretation
to be made
most favorable
to the lords
proprie ors.

And in case it shall happen, that any doubts or questions shall arise, concerning the true sense and understanding of any word, clause, or sentence contained in this our present charter ; we will, ordain and command, that in all times, and in all things; such interpretations be made thereof, and allowed in all and every of our courts whatsoever, as lawfully may be adjudged most advantageous and favorable to the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony, Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, their heirs and assigns, although express mention, &c.

WITNESS ourself, at Westminster, the thirtieth day of June, in the seventeenth year of our reign.

PER IPSUM REGEM.

GREAT DEED OF GRANT.

George Duke of Albemarle, master of His Majesty's horse ; Edward Earl of Clarendon ; William Earl of Craven ; John Lord Berkeley ; Anthony Lord Ashley, Chancellor of the Exchequer ; Sir George Carteret, Vice Chamberlain of His Majesty's household ; Sir William Berkeley, Knight ; and Sir John Colleton, Baronet ; the true and absolute Lords proprietors of all the province of Carolina.

To our trusty and well-beloved SAMUEL STEPHENS, Esq. Governor of our county of Albemarle, and the isles and islets within ten leagues thereof ; and to our trusty and well-beloved Counsellors and Assistants to our said Governor : GREETING.

WHEREAS, we have received a petition from the Grand Assembly of our county of Albemarle, praying, that the inhabitants of the said county may hold their lands upon the same terms and conditions that the inhabitants of Virginia hold theirs ; and forasmuch as the said county doth border upon Virginia, and is much of the same nature, we are content, and do grant, that the inhabitants of the said county do hold their lands of us, the lords proprietors, upon the same terms and conditions that the inhabitants of Virginia hold theirs : WHEREFORE, be it known unto all men, by these presents, That we, the said lords and absolute proprietors of the county within the province aforesaid, have given, granted, and by these presents, do give and grant, full power and authority unto you, the said governor, by and with the consent of our council, or the major part thereof, or to any governor for the time being, or that shall hereafter be by us appointed, full power and authority, by and with the consent of our council then being, or the major part thereof, to convey and grant such proportions of land, as, by our instructions and concessions, annexed to our commission, bearing date in October, Anno Dom. 1667, we have appointed, to such persons as shall come into our said county to plant or inhabit ; to be held of us, of our heirs and assigns, upon the same terms and conditions, that land is at present usually granted in Virginia ; any thing in our instructions and concessions aforesaid to the contrary, notwithstanding : and we do hereby declare and consent, that the warrant to the surveyor for the laying out of said land, and the return thereon, being registered, and also the grant of you our said governor and council, that shall be where such land is due, having the seal of the country affixed to it, and signed by yourself, and major part of our council, for the

Lands to be held upon the same terms they are in Virginia.

time being, being registered, shall be good and effectual in law, for the enjoyment of the said land or plantation and all the benefits and profits of, and in the same, (except one half of all gold and silver mines) to the party to whom it is granted, his heirs and assigns, forever, he or they performing the conditions aforesaid.

GIVEN under our hands, and great seal of our province, the first of May, Anno Dom. 1668.

ALBEMARLE,
BERKELEY,
CARTERET,
CRAVEN,
ASHLEY,
COLLETON.

GRANT

FROM

KING GEORGE THE SECOND,

TO

JOHN LORD CARTERET,

AFTERWARDS

EARL GRANVILLE.

THIS Indenture made the seventeenth day of September, in the eighteenth year of the reign of our sovereign lord George the Second, by the grace of God, of Great Britain, France and Ireland, King, Defender of the Faith, &c., and in the year of our Lord one thousand seven hundred and fortyfour, between our said sovereign lord the King's most excellent majesty of the one part, and the right honorable John Lord Carteret of the other part.

Dated the 17th
September,
1744.

Whereas his late majesty King Charles the Second, by his letters patent, under the great seal of England, bearing date at Westminster the twentyfourth day of March, in the fifteenth year of his reign, did grant and confirm unto Edward then Earl of Clarendon, George then Duke of Albemarle, William then Lord Craven, John then Lord Berkeley, Anthony then Lord Ashley, Sir George Carteret, knight and baronet, Sir William Berkeley, and Sir John Colleton, knight and baronet, all since deceased, their heirs and assigns, all that territory or tract of ground situate, lying and being within his said late majesty's dominions in America, extending from the north end of the island, called Lucker Island, which lieth in the southern Virginian seas, and within six and thirty degrees of the northern latitude, and to the west as far as the south seas, and so southerly as far as the river Saint Matthias, which bordereth upon the coast of Florida, and within one and thirty degrees of northern latitude, and so west in a direct line as far as the south seas aforesaid; together with all and singular ports, harbors, bays, rivers, isles and islets, belonging unto the country aforesaid; and also, all the soil, lands, fields, woods, mountains, farms, lakes, rivers, bays, and islets, situate or being within the bounds and limits aforesaid; with the fishing of all sorts of fish, whales and sturgeon, and all other royal fishes, in the sea, bays, islets and rivers within the premises; and the fish therein taken. And moreover, all veins, mines, quarries, as well discovered as not discovered, of gold, silver, gems and precious stones, and all other whatsoever, whether of stones, metals, or any other thing whatsoever, found or to be found within the country,

Recital of the
charter of the
15th of Charles
II.

islets and limits aforesaid; and also all the patronage and advowsons of all churches and chapels, which, as Christian religion should increase within the countries, isles, islets, and limits aforesaid, should happen thereafter to be erected, together with license and power to build and found churches, chapels, and oratories in convenient and fit places within the said bounds and limits, and to cause them to be dedicated and consecrated according to the ecclesiastical laws of the kingdom of England, together with all and singular the like, and as ample rights, jurisdictions, privileges, prerogatives, royalties, liberties, immunities and franchises of what kind soever within the country, isles, islets, and limits aforesaid. To have, use, exercise and enjoy, and in as ample a manner as any bishop of Durham in the kingdom of England ever theretofore had, held, used or enjoyed, or of right ought or could have, use or enjoy. And his said late majesty did thereby for himself, his heirs and successors, make, create and constitute the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkeley, and Sir John Colleton, their heirs and assigns, the true and absolute lords and proprietors of the country aforesaid, and all other the premises, (saving always the faith, allegiance and sovereign dominion due to his said majesty for the same) to have, hold, possess and enjoy the said country, isles, islets, and all other the premises, to them the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkeley, and Sir John Colleton, their heirs and assigns, forever, to be holden of his said late majesty, his heirs and successors, as of his manor of East-Greenwich in the county of Kent, in free and common socage, and not in capite or by knight's service, yielding and paying to his said majesty, his heirs and successors, for the same, the fourth part of all gold and silver ore within the limits aforesaid, and the yearly rent of twenty marks.

Recital of the charter of the 17th Charles II.

And whereas his said late majesty, king Charles the Second, by other letters patent under the great seal of England, bearing date the thirtieth day of June, in the seventeenth year of his reign, reciting the letters patent herein first recited, did grant unto the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven then Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, their heirs and assigns, all that province, territory and tract of ground situate, lying and being within his late majesty's dominions of America, extending north and eastward as far as the north end of the Currituck river or gullet upon a strait westerly line to Wyanoake creek, which lies within or about the degrees of thirty six and thirty minutes northern latitude, and so west in a direct line so far as the south seas, and south and westward as far as the degrees of twenty nine, inclusive, northern latitude, and so west in a direct line to the south seas, together with all and singular the ports, harbors, bays, rivers and islets belong-

ing unto the province or territory aforesaid, and also all the soil, lands, fields, woods, farms, lakes, rivers, bays and islets, situate or being within the bounds or limits last before mentioned, with fishing of all sorts of fish, whales, sturgeons and other royal fishes, in the sea, bays, islets, and rivers within the premises, and the fish therein taken, together with the royalty of the sea upon the coasts within the limits aforesaid, and all veins, mines and quarries as well discovered as not discovered, of gold, silver, gems and precious stones, and all other whatsoever, be it of stone, metals or any other things found or to be found within the premises, territory, islets and limits aforesaid;—and furthermore the patronages and advowsons of all churches and chapels, which, as Christian religion should increase within the province, territory, isles and limits aforesaid, should happen thereafter to be erected, together with license and power to build and found churches, chapels and oratories in convenient places within the said bounds and limits, and to cause them to be dedicated and consecrated according to the ecclesiastical laws of the kingdom of England, together with all and singular the like and as ample rights, jurisdictions, privileges and prerogatives, royalties, liberties, immunities and franchises of what kind soever, within the territory, isles, islets and limits aforesaid. To have, hold, use, exercise and enjoy the same as amply and fully, and in as ample manner as any bishop of Durham in the kingdom of England ever theretofore, had, held, used or enjoyed, or of right ought or could have, use or enjoy.

And his said late majesty did thereby for himself, his heirs and successors, make, create, constitute and appoint the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton and Sir William Berkeley, their heirs and assigns, the true and absolute lords proprietors of the said province or territory, and of all other the premises, (saving always the faith, allegiance and sovereign dominion to his said late majesty, his heirs and successors, for the same.) To have, hold, possess and enjoy, the said province, territory, islets, and all and singular other the premises to them the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton and Sir William Berkeley, their heirs and assigns forever. To be holden of his said majesty, his heirs and successors, as of the manor of East Greenwich aforesaid, in free and common socage, and not in capite, or by knight's service, yielding and paying to his said majesty, his heirs and successors, for the same, the fourth part of all gold and silver ore, which, within the limits thereby granted, should from time to time happen to be found, over and besides the yearly rent of twenty marks, and the fourth part of the gold and silver ore in and by the said first recited letters patent reserved and payable. And his said late majesty King Charles the Second, did, by the said several letters patent, or one of them, grant to the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven,

John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, their heirs and assigns, full and absolute power to make and publish laws, either appertaining to the public state of the said provinces, or to the private utility of particular persons, with the assent of the freemen of the said provinces or of their delegates, and for that purpose to assemble them in such manner and form as to them the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton and Sir William Berkeley, their heirs and assigns should seem best, and the same laws duly to execute on all the people within the said provinces and limits thereof by imposition of penalties, imprisonments, or any other punishments, and if mindful, by taking away member or life, either by them the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, their heirs and assigns, or by them or their deputies, lieutenants, judges, justices, magistrates, or officers whatsoever, as well within the same province as at sea, in such manner and form as unto the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, and their heirs shall seem most convenient : also to remit, release, pardon and abolish, whether before judgment or after, all crimes and offences whatsoever against the said laws, and to do all and every other thing and things which unto the complete establishment of justice, unto court sessions and forms of jurisdiction, and manners of proceeding therein, do belong, although in the said letters patent express mention is not made thereof, and by judges by him or them delegated, to award process, hold pleas, and determine in all the said courts and places of judicature all actions, suits and causes whatsoever, as well criminal as civil, real, mixt, personal, or of any other kind or nature whatsoever ; and because such assemblies of freeholders could not so conveniently be called as there might be occasion to require the same, his said majesty did further grant to the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, their heirs and assigns, by themselves or their magistrates, full power to make and ordain fit ordinances within the said provinces, as well for keeping the peace, as for the better government of the people.

✓ And his majesty did further grant to the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, their heirs and assigns, full power to make and erect within the said provinces and the isles and islets aforesaid, such sea-ports, harbors, creeks, and with such jurisdictions, privileges and franchises to them be-

longing as to them shall seem convenient, and to have and enjoy the customs and subsidies therein payable for goods and merchandises there laded, to be reasonably assessed by themselves with the consent of the free people there.

And further his said majesty did grant to the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, their heirs and assigns, full power to confer upon the inhabitants of the said province such marks of favor and titles of honor as they should think fit, so as the said titles be not the same as are enjoyed by, or conferred upon any of the subjects of England; and also, power to raise and build forts, castles, cities, boroughs, towns, villages and other fortifications; and furnish the same with all ordnance, powder, shot, armour, and all other weapons, ammunition, habiliments of war, both defensive and offensive, as shall be thought fit and convenient for the safety and welfare of the said province and places, or any part thereof; and to dismantle and demolish the same; and appoint governors, deputy governors, magistrates, sheriffs, and other officers, civil and military; and to the said cities, towns, boroughs, villages, or any other place or places within the said province or territory to grant letters or charters of incorporation, with all requisite and usual liberties, franchises and privileges, and appoint therein fairs and markets, and to make and erect manors and courts baron, and courts leet for the conservation of the peace and better government of the said provinces; and also, full power to levy, muster, and train all sorts of men, of what condition or wheresoever born within the said provinces, and to make war by land and sea, and to do all and every thing which belongs to the office of a captain-general of an army, and to exercise martial law in as ample a manner as any captain-general of an army, by virtue of his office might or has accustomed to use the same.

And his said majesty did further grant to the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, their heirs and assigns, full power from time to time forever, to assign, alien, grant, or enfeoff the premises to such persons as they should think fit, to hold in fee-simple or fee-tail, for term of life or lives or years, to be held of them and their assigns by such rents, services, and customs as shall seem fit to them, and not of his said majesty, his heirs and successors, the statute of *quia emptores terrarum* or any other statute, cause or thing notwithstanding, as in and by the said several recited letters patent, relation being thereunto had, may appear.

And whereas the respective parts, shares, interests and estates of the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir John Colleton, and Sir William Berkeley, of and in the provinces, territories, islets, hereditaments, and premises, in and by the said several recited letters patent granted and

The rights and interests of the said proprietors vested in others.

comprised, did come unto and vest in Henry Duke of Beaufort, William late Lord Craven, James Bertie, Doddington Greville, Henry Bertie, Mary Dawson, Elizabeth Moor, Sir John Colleton, Archibald Hutcheson, John Cotton, and Joseph Blake, or some or one of them, and the part, share, interest and estate of the said Sir George Carteret of and in the same premises, did come unto and vest in the said John Lord Carteret. And whereas the said Henry, now Duke of Beaufort, William, late Lord Craven, James Bertie, Henry Bertie, Sir John Colleton, and Archibald Hutcheson, who was trustee for the said John Cotton, being six of the lords proprietors of the provinces and territories aforesaid, did by their humble petition to his majesty in council propose to surrender to his majesty their said several and respective shares and interest, not only of the said government, royalties and franchises in and by the said recited letters patent granted, but also all the right and property they had in and to the soil in the aforesaid provinces or territories under the said several recited letters patent or either of them; and also to make an entire surrender to his majesty of their right to all the lands which they hold under the grants made by the said lords proprietors (except as therein excepted) praying that in consideration of such surrender, his majesty would be pleased to direct and cause to be paid to each of them the sum of two thousand five hundred pounds a piece, without any deduction; and Samuel Wragg of London, merchant, did on the behalf and by the direction of the said Joseph Blake propose to surrender and convey to his majesty, his heirs and successors, all the estate, right and interest of the said Joseph Blake in and to the premises, upon payment of the like sum of two thousand five hundred pounds to the said Joseph Blake without any deduction.

Six of the proprietors propose by petition, to surrender to his majesty their respective shares of the government and soil of the provinces, (except, &c.) for the sum of 2,500*l.* a piece.

Another proprietor proposes to surrender upon the like terms.

Seven of the proprietors estimate the quit rents, &c. and propose to assign them to his majesty for 5,000*l.*

The several proposals agreed to by his majesty.

And whereas the said Henry Duke of Beaufort, William Lord Craven, James Bertie, Henry Bertie, Sir John Colleton, and Archibald Hutcheson, who is a trustee for the said John Cotton, laid before a committee of his majesty's most honorable privy council an estimate of all the arrears of quit rents and other rents, and sum and sums of money then due and owing to them and the said Joseph Blake and the said John Lord Carteret, which estimate amounted to the sum of nine thousand five hundred pounds; and they the said Henry Duke of Beaufort, William Lord Craven, James Bertie, Henry Bertie, Sir John Colleton, and Archibald Hutcheson, did likewise humbly propose, and the said Samuel Wragg for and on the behalf of the said Joseph Blake did likewise propose, that if his said majesty would please to allow the sum of five thousand pounds for the said arrears (over and above the said several sums of two thousand five hundred pounds to be paid to them respectively) they were willing to assign over to his majesty their right and title to the said arrears, and all other demands whatsoever, which they had or could have upon the farmers, tenants or inhabitants of the provinces or territories aforesaid, or any of them; and which said several proposals his majesty was pleased to accept and agree to.

And whereas by an act of parliament made in the second year

of his said present majesty's reign, entitled, An Act for establishing an agreement with seven of the lords proprietors of Carolina for the surrender of their title and interest in that province to his majesty, reciting to the effect herein before recited, it was enacted, that all those seven undivided eighth parts, (the whole into eight equal parts or shares to be divided) and all other the part or share, parts or shares, interests and estates of them the said Henry Duke of Beaufort, William Lord Craven, James Bertie, Doddington Greville, Henry Bertie, Mary Dawson, and Elizabeth Moor, Sir John Colleton, Archibald Hutcheson as trustee for the said John Cotton, and Joseph Blake, and each of them, of, and in the aforesaid provinces or territories called Carolina, and all and singular the royalties, franchises, lands, tenements, hereditaments, and premises in and by the said several recited letters patent, or either of them, granted or mentioned, or intended to be granted by his said late majesty King Charles the Second, to the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton deceased, and Sir William Berkeley, their heirs and assigns aforesaid, with their and every of their rights, members, and appurtenances, and also all such powers, liberties, authorities, jurisdictions, pre-eminences, licenses and privileges as they the said Henry Duke of Beaufort, William Lord Craven, James Bertie, Doddington Greville, Henry Bertie, Mary Dawson and Elizabeth Moor, the present Sir John Colleton, the said Archibald Hutcheson, as trustee for the said John Cotton, and Joseph Blake, every or any of them could or might have, hold, use, exercise or enjoy by virtue of or under the said recited letters patent or either of them, (except as therein excepted) and the reversions, remainders, rents, issues and profits of the same parts or shares, baronies, lands, tenements, hereditaments and premises, so as aforesaid proposed and agreed to be surrendered to his majesty, and of every part and parcel thereof, should from and after the first day of June in the year of our Lord one thousand seven hundred and twentynine, be vested and settled, and the same were thereby vested and settled, in and upon the said Edward Bertie, Samuel Horsey, Henry Smith and Alexius Clayton, and their heirs, to the use of them, their heirs and assigns, freed and discharged, of and from all estates, uses, trusts, entails, reversions, remainders, limitations, charges and incumbrances whatsoever, upon trust, and to the intent that they the said Edward Bertie, Samuel Horsey, Henry Smith and Alexius Clayton, and the survivors and survivor of them, and the heirs of such survivor, upon payment by his majesty, his heirs or successors to the said Edward Bertie, Samuel Horsey, Henry Smith and Alexius Clayton, of the sum of seventeen thousand five hundred pounds, clear of all deductions, on or before the twentyninth day of September, one thousand seven hundred and twentynine, should by deed indented and to be enrolled in his majesty's high court of chancery, surrender, convey, and assure unto his majesty, his heirs and successors, all and sin-

An act of parliament to establish the agreement.

The surrendered shares, &c. vested in trustees, to convey to his majesty, on payment of 17,500*l.* to be applied as the act directs.

Rights to the quit rents also vested in the king, after payment of the 5,000*l*.

Reservation in the act of one eighth part of the provinces, quit rents, &c. to John Lord Carteret.

Indenture tripartite of the 5th July, 1729, between the king, the trustees, and the late proprietors.

gular the said seven eighth parts or shares (the whole into eight equal parts to be divided) and all other the parts and shares, interests and estates, of and in the said provinces or territories, and all and singular the premises thereby vested in them and their heirs aforesaid, which said sum of seventeen thousand five hundred pounds should be applied and disposed of in such manner as by the said act is particularly directed. And it was by said act further enacted, That from and after the payment of the said sum of five thousand pounds to the said Edward Bertie, Samuel Horsey, Henry Smith and Alexius Clayton, the survivor or survivors of them, or the executors or administrators of such survivor, and after the execution of the grant and assignment of the said parts and shares of the said arrears, by the said act directed to be made, his majesty might have, receive and enjoy the said seven eighth parts or shares (the whole into eight equal parts to be divided) and all and every other parts and shares of the said arrears of quit rents, and other rents and sums of money thereby vested in the said Edward Bertie, Samuel Horsey, Henry Smith and Alexius Clayton, and should and might have, use and pursue such and the like remedies for the recovery thereof as the said Henry Duke of Beaufort, William Lord Craven, James Bertie, Henry Bertie, Mary Dawson, Doddington Greville, Sir John Colleton, Archibald Hutcheson, John Cotton and Joseph Blake, any or either of them, might have had, used or pursued, if the said act had not been made; and in and by the said act there is contained a reservation to the said John Lord Carteret, his heirs, executors, administrators or assigns, of all such estate, right, title, interest, property, claim and demand whatsoever, in, unto or out of one eighth part or share of the said provinces or territories; with all and singular the rights, members and appurtenances thereof, and of, in and to one eighth part or share of all arrears of quit rents, and other rents, sum and sums of money, debts, duties, accounts, reckonings, claims, and demands whatsoever, now due and owing to the present lords proprietors of the said provinces and territories, and all such other rights, titles, privileges and powers whatsoever as the said John Lord Carteret, his heirs, executors or administrators then had or might have had, or been entitled unto in case the said act and the conveyances thereby directed to be made to his majesty, his heirs or successors, or either of them, had not been or should not be made as in and by the said act of parliament herein before recited, relation being thereunto had, may amongst other things more fully appear.

And whereas by indenture tripartite bearing date the twentyfifth day of July, in the year of our Lord one thousand seven hundred and twenty-nine, and made or mentioned to be made between our said sovereign lord the King, of the first part, and the said Edward Bertie, Samuel Horsey, Henry Smith and Alexius Clayton, by the names and additions of Edward Bertie, of Gray's Inn, in the county of Middlesex, Esquire, Samuel Horsey, of Mortlake, in the county of Surry, Esquire, Henry Smith, of Caversham, in the county of Oxon, Esquire, Alexius Clayton, of the Middle Tem,

ple, London, Esquire, of the second part, and the most noble Henry Duke of Beaufort, the honorable James Bertie, of the parish of Saint John the Evangelist, in the Liberty of Westminster, in the county of Middlesex, Esquire, the honorable Doddington Greville, of Bulford, in the county of Wilts, Esquire, the said Doddington Greville and James Bertie being the surviving devisees named in the last will of the most noble Henry Duke of Beaufort, deceased, in trust for the said Henry, now Duke of Beaufort, and for the right honorable Charles Noel Somerset, Esquire, commonly called Lord Charles Noel Somerset his brother, an infant, the right honorable William Lord Craven, Joseph Blake, of the province of South Carolina, in America, Esquire, Archibald Hutcheson, of the Middle Temple, London, Esquire, John Cotton, of the Middle Temple, London, Esquire, Sir John Colleton, of Exmouth, in the county of Dover, Baronet, the honorable Henry Bertie, of Dorton, in the county of Bucks, Esquire, Mary Dawson, of the parish of Saint Andrew, Holborn, in the county of Middlesex, widow, and Elizabeth Moor, of London, widow, of the third part, reciting as therein is recited.

It is witnessed that they the said Edward Bertie, Samuel Horsey, Henry Smith and Alexius Clayton, for the consideration therein, pursuant to the directions in the said recited act of parliament, and the trust thereby in them reposed, did bargain, sell and surrender, and the said Henry Duke of Beaufort, William Lord Craven, James Bertie, Doddington Greville, Henry Bertie, Mary Dawson, Elizabeth Moor, Sir John Colleton party thereto, Archibald Hutcheson, John Cotton, and Joseph Blake, did ratify and confirm unto his Majesty, his heirs and successors, the said seven undivided eighth parts (the whole into eight equal parts to be divided) and all other the part or share, parts or shares, interests and estates in and by the recited act of parliament vested in them the said Edward Bertie, Samuel Horsey, Henry Smith and Alexius Clayton, (except as in the said act is excepted) of and in the aforesaid provinces or territories called Carolina, and of and in all and singular the royalties, franchises, lands, tenements, hereditaments and premises, in and by the said several recited letters patent or either of them granted or mentioned to be granted, with their and every of their rights, members and appurtenances, and all the estate, right, title, interest, trust, property, claim and demand whatsoever, of them the said Edward Bertie, Samuel Horsey, Henry Smith and Alexius Clayton, and of the said Henry Duke of Beaufort, James Bertie, Doddington Greville, William Lord Craven, Henry Bertie, Mary Dawson, Elizabeth Moor, Sir John Colleton party thereto, Archibald Hutcheson, John Cotton and Joseph Blake, every or any of them, of, in, and to the same. To hold the seven undivided eighth parts (the whole into eight equal parts to be divided) and all other the premises thereby bargained, sold and surrendered, with their and every of their appurtenances (except as therein before excepted) unto the king's most excellent majesty, his heirs and successors.

The trustees convey and the proprietors confirm to the king the said seven parts except as by the act excepted.

And it is by the said indenture further witnessed, That for the

Seven parts of further consideration therein mentioned, they the said Edward the quit rents conveyed in like manner to the king. Bertie, Samuel Horsey, Henry Smith and Alexius Clayton, in pursuance of the trust in them reposed, in and by the said recited act of parliament, did grant, bargain, sell, assign, transfer and set over ; and the said Henry Duke of Beaufort, William Lord Craven, James Bertie, Doddington Greville, Henry Bertie, Mary Dawson, Elizabeth Moor, Sir John Colleton party thereto, Archibald Hutcheson, John Cotton and Joseph Blake, did ratify and confirm unto his said majesty, his heirs and successors, the said seven eighth parts (the whole into eight equal parts to be divided) of all and every the arrears of the quit rents, sum and sums of money, debts, duties and demands whatsoever, which at the time of making the said act of parliament were due and owing to the said Henry Duke of Beaufort, or to the said James Bertie, and Doddington Greville, and to the said John Lord Carteret, William Lord Craven, James Bertie, Henry Bertie, Mary Dawson, Elizabeth Moor, Sir John Colleton party thereto, Archibald Hutcheson, John Cotton and Joseph Blake, and all the arrears, shares, sums of money and premises, in and by the said recited act vested or intended to be vested in them the said Edward Bertie, Samuel Horsey, Henry Smith and Alexius Clayton, in trust for the purposes aforesaid ; and all the right, title, interest, trust, claim and demand whatsoever of them the said Edward Bertie, Samuel Horsey, Henry Smith and Alexius Clayton, and of them the said Henry Duke of Beaufort, James Bertie, Doddington Greville, William Lord Craven, Henry Bertie, Mary Dawson, Elizabeth Moor, Sir John Colleton party thereto, Archibald Hutcheson, John Cotton and Joseph Blake, every or any of them, of, in, and to the same. To hold, receive and enjoy the said arrears, sums of money and premises therein last before granted, bargained and sold and assigned unto his said majesty, his heirs and successors, to and for his and their own use and benefit as in and by the said recited indenture, relation thereunto being had, may more fully appear.

Lord Carteret petitions the king in council to have his 8th part set out and allotted to him, and proposes to surrender the government of the provinces.

And whereas the said John Lord Carteret, by his humble petition, to his majesty in council, reciting the said several letters patent and act of parliament herein before recited, and that he is still entitled to one full undivided eighth part of the said province, and of all the premises granted by the said several letters patent, and also of the arrear of quit rents, and other duties, reckonings, claims and demands, hath humbly prayed his majesty that his said eighth part of the soil of the said provinces and territories, might be set out and allotted to him in such part of the said provinces and territories as should be agreed on between such persons as his majesty shall be pleased to appoint for his majesty, and such persons as the said John Lord Carteret should name on his part. To have, hold and enjoy the same forever hereafter in severalty to the said John Lord Carteret, his heirs and assigns, together with all and every the same royalties, powers, liberties, franchises and privileges, (the government thereof and of the said province of Carolina only excepted) as far as concerns such eighth part to be

so allotted to the said John Lord Carteret, as he is entitled to under the said letters patent and act of parliament, in case such division or allotment was not or should not be made, and under the like quit rents proportionably, as is mentioned in the said letters patent according to the proportion or eighth part thereof; and thereupon the said John Lord Carteret humbly offered and proposed to surrender to his majesty, his heirs and successors, his share and interest of and in the government of the said provinces or territories, and to convey, release and confirm to his majesty, his heirs and successors, the other seven parts of the said provinces.

And whereas his present majesty was pleased to refer the said petition to the right honorable the lords of the committee of his majesty's most honorable privy council, for them to consider thereof, and report the same, with their opinion thereupon, to his majesty in council, and which said petition the said lords of the committee of his majesty's most honorable privy council, did refer to the right honorable the lords commissioners for trade and plantations for them to examine the same and consider thereof and report the same with their opinion thereupon to their lordships. And whereas the lords commissioners for trade and plantations having examined the said petition, and considered thereof, did, by their report to the said lords of the committee of his majesty's most honorable privy council, offer as their opinion, that it would be for his majesty's service that the said Lord Carteret's property should be separated from that of his majesty, wherein the said Lord Carteret should enjoy whatsoever he was entitled to by the charters of Carolina, and the aforesaid act of parliament; and for the better preventing any difficulties that might attend the setting out an eighth part of the soil of the said province, the said lords commissioners conceive the method proposed by the said Lord Carteret would be the most effectual, which said report the said lords of the committee of his majesty's most honorable privy council having taken into their consideration, did agree in opinion with the said lords commissioners for trade and plantations. And whereas the said right honorable the lords of the committee of his majesty's most honorable privy council did on the twentyfourth of August, one thousand seven hundred and fortytwo, make their report thereupon to his majesty, reciting as herein last before is recited; and that the said Lord Carteret's property should be separated from that of his majesty, and for that end the said committee humbly propose that the respective governors of South and North Carolina, or either of them, as his majesty should be pleased to direct, be ordered to nominate and appoint proper persons as commissioners on his majesty's behalf, not exceeding five, who in conjunction with a like number of persons to be appointed by the said Lord Carteret as commissioners on his behalf, should be empowered to set out and allot to the said Lord Carteret one full eighth part of the said provinces of Carolina, in such part or parts of the said provinces and territories as

Petition referred to a committee of the privy council.

By them referred to the lords commissioners for trade and plantations.

Lords commissioners report to the committee of privy council in favor of the petition.

The committee agree in opinion with the commissioners.

The committee report to the king that Lord Carteret's property should be separated from his majesty's.

That the governors of the Carolinas, or either of them, be ordered to appoint commissioners to allot the said 8th part to Lord Carteret.

The commis- should be agreed on by the said commissioners so to be appointed sioners to make as aforesaid ; and that they should be required to make a return a return of such of their proceedings therein to his majesty in council, within eigh- the king in teen months after the date of his majesty's order to be made upon the king in council within 18 months. the said report, and also to lay before his majesty a plan containing

And to lay be- a full and exact description of the said lands, together with the fore the king a respective boundaries thereof, in order to his majesty's signifying his royal pleasure (in case his majesty should approve thereof) for lands, &c. his conveying the same to the said Lord Carteret in such manner as should be advised by his majesty's counsel learned in the law, provided the said Lord Carteret should at the same time make a sur- render to his majesty of all his pretensions to the government of the said provinces of Carolina, and should convey, release, and confirm to his majesty, his heirs and successors the other seven parts of the said provinces : and for the better guidance of the commissioners so to be appointed on his majesty's behalf in the discharge of their duty therein, the said committee conceived, that it might be advisable for his majesty by his order in council, to require the said commissioners to follow and observe such directions and instructions as might be found necessary to be given from time to time, either by his majesty, or by those who act under his majesty's royal authority ; and which said report his majesty in council was pleased to approve of.

The king ap- proves of the report.

Order in coun- cil for carrying the provisions of the report into effect.

And whereas his said majesty, by his order in council, bearing date the fifteenth day of September, in the year of our Lord one thousand seven hundred and fortytwo, reciting as herein last above is recited, and that his majesty in council was that day pleased to take the said petition into his royal consideration, together with the opinion of a committee of his privy council, and of the lords commissioners for trade and plantations thereupon, and was thereby pleased to order that the respective governors of the provinces of S. and N. Carolina, or either of them, as his majesty should there- after be pleased to direct, should nominate and appoint proper persons to be commissioners on his majesty's behalf, not exceed- ing five, who in conjunction with a like number of persons to be appointed by the said Lord Carteret as commissioners on his be- half, were thereby empowered to set out and allot to the said Lord Carteret one full eighth part of the said provinces of Carolina, in such part or parts of the said provinces and territories as should be agreed upon by the commissioners so to be appointed as afore- said ; and that the said commissioners should make a return of their proceedings herein to his majesty in council, within eighteen months from the date of the said order, and that they should at the same time transmit to his majesty a plan containing a full and exact description of the said lands, together with the respective boundaries thereof, in order to his majesty's signifying his royal pleasure, (in case his majesty should approve thereof) for convey- ing the same to the said Lord Carteret in such manner as shall be advised by his majesty's counsel learned in the law, provided that the said Lord Carteret should at the same time make a surrender

to his majesty of all his pretensions to the government of the said provinces of Carolina, and should convey, release and confirm to his majesty, his heirs and successors, the other seven parts of the said provinces as by the said petition and order, relation thereunto likewise being had, may more fully appear.

And whereas commissioners were accordingly appointed on behalf of his majesty, and of the said John Lord Carteret, to set out and allot to the said John Lord Carteret one full eighth part of the said provinces of Carolina, who by their humble report to his majesty in council bearing date the sixth day of December, in the year of our Lord one thousand seven hundred and fortythree, did certify that in pursuance of his majesty's said order in council, dated the fifteenth day of September, one thousand seven hundred and fortytwo, and of his majesty's royal instructions thereupon, given the twentyfifth day of April, one thousand seven hundred and fortythree, they did immediately proceed to set out and allot to the said John Lord Carteret one full eighth part of the provinces of Carolina, in one entire separate district, in the province of Virginia, which eighth part is bounded to the north by the line that divides Carolina from Virginia, to the east, by the great western ocean, commonly so called, and as far southwardly as a cedar stake set upon the sea side, in the latitude of thirtyfive degrees and thirtyfour minutes at north latitude, being six miles and a half to the southward of Chickmacomack inlet, from that stake by a west line which passed twentyfive feet to the southward of the house wherein Thomas Wallis liveth, and so west as far as the bounds of the charter granted to the lords proprietors of Carolina by his majesty King Charles the Second, which west line went one thousand six hundred and sixty poles to the north of the south end of Bath-Town, and the said commissioners did, pursuant to the said order in council, transmit to his majesty a plan containing a full and exact description of the said one eighth part of the said provinces or territories, so set out and allotted to the said John Lord Carteret, annexed to their said report, and all which boundaries are marked out and ascertained by the said plan, a true and exact copy whereof is stampt on the fifth skin of these presents; which said return of the said commissions his majesty was pleased by his order in council, bearing date the twentyfirst of March last, to refer to the said lords of the committee of his most honorable privy council, for them to consider thereof, and report their opinion thereupon to his majesty in council; and whereas the said right honorable the lords of the committee of his majesty's most honorable privy council for plantation affairs, did upon consideration thereof, by their report to his majesty in council, bearing date the ninth day of May last, reciting such orders, reports, and proceedings upon the said petition of the Lord Carteret as are herein before recited, agree humbly to report as their opinion, that his majesty might be pleased to approve of the said return and plan of the allotment thereby made to the said Lord Carteret, for his one

Commissioners appointed to set off and allot the said one eighth part, and their report thereon.

Boundaries of Lord Carteret's 1-8th part.

The return of the commissioners referred to the committee of the privy council.

Report of the committee.

eighth part of both the provinces of Carolina, and that thereupon it might be advisable for his majesty to order his attorney and solicitor general to prepare the necessary instruments or deeds, conformable to what is contained in the afore mentioned reports of the fifteenth of September, one thousand seven hundred and forty-two, for conveying, releasing and confirming the said lands to the said Lord Carteret and his heirs, and likewise for the said Lord Carteret's surrendering up to his majesty all his pretensions to the government of the said provinces of Carolina, and for conveying, releasing, and confirming to his majesty, his heirs and successors, the other seven parts of the said provinces. And whereas on the said ninth of May last, his majesty in council, took the said report last above mentioned into consideration, and was pleased with the advice of his privy council to approve thereof, and also, of the return and plan thereto affixed, and of the allotment of land thereby made to the said Lord Carteret for his one eighth part of the province of Carolina, and his majesty did thereby order that Mr Attorney and Mr Solicitor General do prepare such instruments or deeds as are proposed by the said report, as by the said orders and reports, relation being thereunto respectively had may more fully appear.

Report of the committee, &c. approved by the king in council.

The attorney and solicitor general ordered to prepare the deeds.

The king's grant to Lord Carteret for 1-8th part of the provinces so allotted to him.

Now this indenture witnesseth, that for and in consideration of the said John Lord Carteret surrendering, releasing and confirming unto his said majesty, all his estate, right, title and interest of, in and to the government of the said provinces of Carolina, and of, in and to the said seven eighth parts divided from the said one eighth part so allotted to the said John Lord Carteret as aforesaid, of and in the aforesaid provinces or territories called Carolina, and also for and in consideration of the said John Lord Carteret's granting and assigning unto his said present majesty all and every the arrears of quit rents and other sum or sums of money, debts, duties, accounts, reckonings, claims and demands whatsoever, which are now due and owing to his present majesty and to the said Lord Carteret from the farmers, tenants or inhabitants of the said seven eighth parts of the said provinces or territories, for the respective lands and tenements which are situate within, and part of the seventh eighth parts of the said provinces or territories as aforesaid, his said present majesty, of his especial grace, certain knowledge and mere motion, hath been graciously pleased to give and grant, ratify, release and confirm, and by these presents for himself, his heirs and successors, doth give and grant, release, ratify and confirm unto the said John Lord Carteret, his heirs and assigns forever, all that the said one eighth part of the said provinces and territories as the same is separated, set out and allotted to the said John Lord Carteret, by the said commissioners as aforesaid; and the reversion and reversions, remainder and remainders, yearly and other rents, issues and profits of, in and to, and out of the said one eighth part of the said provinces and territories and every part and parcel thereof, and also all the estate, right, title, interest, trust, property, right of action, right of entry, claim and demand what-

soever of his said present majesty of, in and to the same, every or any part or parcel thereof, together with all and singular the like, and as ample rights, privileges, royalties, liberties, immunities and franchises, of what kind soever, within the said one eighth part of the said provinces or territories so divided, set out, and allotted to the said John Lord Carteret as aforesaid, in as ample manner and form as the said John Lord Carteret, together with the said Henry Duke of Beaufort, William Lord Craven, James Bertie, Doddington Greville, Henry Bertie, Mary Dawson, Elizabeth Moor, Sir John Colleton, Archibald Hutcheson, John Cotton and Joseph Blake, any or either of them could have held, used or enjoyed the same by virtue of the said recited letters patent, or either of them, in case the said act of parliament and conveyances herein before recited had not been made, except nevertheless, out of this grant, the said powers of making laws, calling or holding of assemblies, erecting courts of justice, appointing judges or justices, pardoning criminals, creating or granting titles of honor, making ports or havens, taking customs or duties on goods laden or unladen, making and erecting counties, forts, castles and cities, or furnishing them with habiliments of war, incorporating cities, boroughs, towns, villages or any other place or places, raising, employing or directing the militia, making war or executing martial law, exercising any of the royal rights of a country palatine, and of doing, using or exercising any other the prerogatives, pre-eminences, rights, jurisdictions and authorities of, belonging or relating to, the administration of the government of the said one eighth part of the said provinces. To have and to hold the said one eighth part of the said provinces and territories so divided, set out, and allotted to the said John Lord Carteret as aforesaid; and all other the royalties, franchises, powers, privileges, lands, tenements, hereditaments and premises hereby given, granted, released and confirmed, or intended so to be, with their, and every of their appurtenances (except as before excepted) unto the said John Lord Carteret, his heirs and assigns, to the use and behoof of the said John Lord Carteret, his heirs and assigns forever; yielding and paying to his said majesty, his heirs and successors the annual rent of one pound thirteen shillings and four pence, payable at the feast of All Saints forever: And also one fourth part of all gold and silver ore, that shall be found within the said one eighth part of the said premises so separated as aforesaid.

Exceptions to the general grant.

Yielding a rent of 1*l.* 13*s.* 4*d.* and 1-4th part of all gold and silver ore.

And this indenture further witnesseth, that as well for the consideration aforesaid as for divers other good considerations thereunto especially moving, his said present majesty hath given, granted and assigned, and by these presents doth, for himself, his heirs and successors, give, grant and assign unto the said John Lord Carteret, his executors, administrators and assigns, all the arrears of quit rent, sum and sums of money, debts, duties, accounts, reckonings, claims and demands whatsoever, now due and owing to his said present majesty, and the said John Lord Carteret, or either of them, for or from the said one eighth part of the said

All arrears of quit-rents due for the eighth part so allotted, also conveyed to Lord Carteret.

provinces and territories so divided, set out, and allotted to the said John Lord Carteret as aforesaid; and all the right, title, interest, trust, property, benefit, advantage, claim and demand whatsoever, of his said present majesty, of, in, and to the same. To have, hold, receive and enjoy the same arrears, sums of money, and premises herein last before given, granted and assigned unto the said John Lord Carteret, his executors, administrators and assigns, to and for his and their own use and benefit.

WITNESSED by the King, at Westminster, the day and year first above mentioned.

BY WRIT OF PRIVY SEAL.

TREATY OF PEACE

BETWEEN

AMERICA AND GREAT BRITAIN.

BY THE UNITED STATES IN CONGRESS ASSEMBLED.

A PROCLAMATION.

WHEREAS definitive articles of peace and friendship between the United States of America and his Britannic majesty, were concluded and signed at Paris, on the third day of September, 1783, by the plenipotentiaries of the said United States and of his said Britannic majesty, duly and respectively authorised for that purpose ; which definitive articles are in the words following :

In the name of the Most Holy and Undivided Trinity :

It having pleased the Divine Providence to dispose the hearts of the most serene and most potent Prince George the Third, by the grace of God, King of Great Britain, France and Ireland, Defender of the Faith, Duke of Brunswick and Lunenburgh, Arch-treasurer and Prince-elect of the holy Roman empire, &c., and of the United States of America, to forget all past misunderstandings and differences that have unhappily interrupted the good correspondence and friendship which they mutually wish to restore, and to establish such a beneficial and satisfactory intercourse between the two countries, upon the ground of reciprocal advantages and mutual convenience, as may promote and secure to both perpetual peace and harmony ; and having for this desirable end already laid the foundation of peace and reconciliation, by the provisional articles signed at Paris, on the thirtieth of November, 1782, by the commissioners empowered on each part, which articles were agreed to be inserted in, and to constitute the treaty of peace proposed to be concluded between the crown of Great Britain and the said United States, but which treaty was not to be concluded until terms of peace should be agreed upon between Great Britain and France, and his Britannic majesty should be ready to conclude such treaty accordingly ; and the treaty between Great Britain and France, having since been concluded, his Britannic majesty and the United States of America, in order to carry into full effect the

The object of the treaty is to establish a beneficial intercourse, peace and harmony between the two countries.

provisional articles above mentioned, according to the tenor thereof, have constituted and appointed, that is to say, his Britannic majesty on his part, David Hartley, Esq., member of the parliament of Great Britain, and the said United States on their part, John Adams, Esq., late a commissioner of the United States of America at the court of Versailles, late delegate in congress from the State of Massachusetts, and chief justice of the said State, and minister plenipotentiary of the said United States to their high mightinesses the States-General of the United Netherlands ; Benjamin Franklin, Esq., late delegate in congress from the State of Pennsylvania, president of the convention of the said State, and minister plenipotentiary from the said United States of America at the court of Versailles ; and John Jay, Esq., late president of congress and chief justice of the State of New York, and minister plenipotentiary from the said United States at the court of Madrid, to be plenipotentiaries for the concluding and signing the present definitive treaty ; who, after having reciprocally communicated their respective full powers, have agreed upon and confirmed the following articles :

Great Britain acknowledges the independence of the U. States, &c.

ART. 1. His Britannic majesty acknowledges the said United States, viz., New Hampshire, Massachusetts Bay, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina and Georgia, to be free, sovereign and independent States ; that he treats with them as such, and for himself, his heirs and successors, relinquishes all claims to the government, property and territorial rights of the same, and every part thereof.

The boundaries of the U. States defined and established.

ART. 2. And that all disputes which might arise in future, on the subject of the boundaries of the said United States, may be prevented, it is hereby agreed and declared, that the following are and shall be their boundaries, viz. from the north west angle of Nova Scotia, viz. that angle which is formed by a line drawn due north from the source of St. Croix river to the Highlands, along the said Highlands, which divide those rivers that empty themselves into the river St. Lawrence, from those which fall into the Atlantic ocean, to the north westernmost head of Connecticut river ; thence down along the middle of that river to the fortyfifth degree of north latitude ; from thence by a line due west on said latitude, until it strikes the river Irriquois or Cataraqui ; thence along the middle of the said river into Lake Ontario ; through the middle of the said lake until it strikes the communication by water between that lake and Lake Erie, through the middle of said lake, until it arrives at the water communication between that lake and Lake Huron, thence through the middle of said lake to the water communication between that lake and Lake Superior ; thence through Lake Superior, northward of the Isles Royal and Phe-lipeaux to the Long Lake ; thence through the middle of said Long Lake and the water communication between it and the Lake of the Woods, to the said Lake of the Woods : thence through the said lake to the most north western point thereof, and from thence on a due west course to the river Mississippi ; thence by a

line to be drawn along the middle of the said river Mississippi until it shall intersect the northernmost part of the thirtyfirst degree of north latitude, south, by a line to be drawn due east from the determination of the line last mentioned in the latitude of thirtyone degrees north of the equator, to the middle of the river Apalachicola or Catahouche; thence along the middle thereof to its junction with the Flint river; thence strait to the head of St. Mary's river; and thence down along the middle of St. Mary's river to the Atlantic ocean; east by a line to be drawn along the middle of the river St. Croix from its mouth in the bay of Fundy to its source, and from its source directly north to the aforesaid Highlands which divide the rivers that fall into the Atlantic ocean from those which fall into the river St. Lawrence, comprehending all islands within twenty leagues of any of the shores of the United States, and lying between the lines to be drawn due east from the points where the aforesaid boundaries between Nova Scotia on the one part, and East Florida on the other, shall respectively touch the bay of Fundy and the Atlantic ocean, excepting such islands as now are or heretofore have been within the limits of the said province of Nova Scotia.

ART. 3. It is agreed that the people of the United States shall continue to enjoy unmolested the right to take fish of every kind on the Grand Bank, and on all the other banks of Newfoundland, also in the gulph of St. Lawrence, and all other places in the sea, where the inhabitants of both countries used at any time heretofore to fish. And also that the inhabitants of the United States shall have liberty to take fish of every kind on such part of the coast of Newfoundland as British fishermen shall use, (but not to dry or cure the same on that island) and also on the coasts, bays and creeks of all others of his Britannic majesty's dominions in America; and that the American fishermen shall have liberty to dry and cure fish in any of the unsettled bays, harbors and creeks of Nova Scotia, Magdalen islands and Labrador, so long as the same shall remain unsettled; but so soon as the same or either of them shall be settled, it shall not be lawful for the said fishermen to dry or cure fish at such settlement without a previous agreement for that purpose with the inhabitants, proprietors or possessors of the ground.

The citizens of the U. States to continue to enjoy the right of fishing on the banks of Newfoundland, in the gulf of St Lawrence, &c.

Liberty to cure fish in the unsettled bays &c. of Nova Scotia, &c.

ART. 4. It is agreed that creditors on either side shall meet with no lawful impediment to the recovery of the full value, in sterling money, of all *bona fide* debts heretofore contracted.

Creditors to meet with no lawful impediments to the recovery of bona fide debts.

ART. 5. It is agreed that congress shall earnestly recommend it to the legislatures of the respective states to provide for the restitution of all estates, rights and properties, which have been confiscated, belonging to real British subjects; and also of the estates, rights and properties of persons resident in districts in the possession of his majesty's arms, and who have not borne arms against the said United States; and that persons of any other description shall have free liberty to go to any part or parts of any of the thirteen United States, and therein to remain twelve months unmolested in their endeavors to obtain the restitution of such of their estates, &c.

Congress to recommend to the states to provide for the restitution of confiscated estates, &c.

12 months allowed certain persons to endeavor to recover their estates, &c.

rights and properties, as may have been confiscated ; and that congress shall also earnestly recommend to the several states a re-consideration and revision of all acts or laws regarding the premises, so as to render the said laws or acts perfectly consistent, not only with justice and equity, but with that spirit of conciliation, which, on the return of the blessings of peace should universally prevail ; and that congress shall also earnestly recommend to the several states, that the estates, rights and properties of such last mentioned persons shall be restored to them, they refunding to any persons who may be now in possession, the *bona fide* price (where any has been given) which such persons may have paid on purchasing any of the said lands, rights or properties since the confiscation.

Congress to recommend to the states a reconsideration of their laws concerning confiscations, &c.

Persons having an interest in confiscated lands may prosecute their just rights.

Confiscations and prosecutions to cease, &c.

And it is agreed that all persons who have any interest in confiscated lands, either by debts, marriage settlements or otherwise, shall meet with no lawful impediment in the prosecution of their just rights.

ART. 6. That there shall be no future confiscations made, nor any prosecutions commenced against any person or persons, for or by reason of the part which he or they may have taken in the present war ; and that no person shall, on that account, suffer any future loss or damage, either in his person, liberty or property ; and that those who may be in confinement on such charges, at the time of the ratification of the treaty in America, shall be immediately set at liberty, and the prosecutions so commenced be discontinued.

Firm and perpetual peace ; prisoners to be released ; negroes not to be carried away ; armies and fleets to be withdrawn ; archives, records, &c. to be restored, &c.

ART. 7. There shall be a firm and perpetual peace between his Britannic majesty and the said States, and between the subjects of the one and the citizens of the other ; wherefore all hostilities both by sea and land shall from henceforth cease ; all prisoners on both sides shall be set at liberty, and his Britannic majesty shall, with all convenient speed, and without causing any destruction, or carrying away any negroes or other property of the American inhabitants, withdraw all his armies, garrisons, and fleets, from the said United States, and from every post, place and harbor within the same, leaving in all fortifications the American artillery that may be therein ; and shall also order and cause all archives, records, deeds and papers belonging to any of the said states, or their citizens, which in the course of the war may have fallen into the hands of his officers, to be forthwith restored, and delivered to the proper states and persons to whom they belong.

Navigation of the Mississippi to be free to both nations.

ART. 8. The navigation of the river Mississippi from its source to the ocean, shall forever remain free and open to the subjects of Great Britain and the citizens of the United States.

Conquests made before the arrival of the provisional articles, to be restored.

ART. 9. In case it should so happen that any place or territory belonging to Great Britain or to the United States should have been conquered by the arms of either from the other, before the arrival of the said provisional articles in America, it is agreed that the same shall be restored without difficulty, and without requiring any compensation.

Ratification to be exchanged in six months.

ART. 10. The solemn ratifications of the present treaty, expedit in good and due form, shall be exchanged between the contracting parties in the space of six months, or sooner, if possible, to be computed from the day of the signature of the present treaty.

In witness whereof, we the undersigned, their ministers plenipotentiary, have in their name, and in virtue of our full powers, signed with our hands the present definitive treaty, and caused the seals of our arms to be affixed thereto,

DONE at Paris, this third day of September, in the year of our Lord one thousand seven hundred and eightythree.

	(L. S.)	JOHN ADAMS.
(L. S.)	DAVID HARTLEY,	(L. S.) B. FRANKLIN.
	(L. S.)	JOHN JAY.

And we the United States in congress assembled, having seen and duly considered the definitive articles aforesaid, did, by a certain act under the seal of the United States, bearing date this fourteenth day of January, 1784, approve, ratify and confirm the same, and every part and clause thereof, engaging and promising that we would sincerely and faithfully perform and observe the same, and never suffer them to be violated by any one, or transgressed in any manner, as far as should be in our power: and being sincerely disposed to carry the said articles into execution truly, honestly, and with good faith, according to the extent and meaning thereof, we have thought proper, by these presents, to notify the premises to all the good citizens of these United States, hereby requiring and enjoining all bodies of magistracy, legislative, executive and judiciary, all persons bearing office, civil, or military, of what rank, degree or powers, and all others the good citizens of these States of every vocation and consideration, that reverencing those stipulations entered into on their behalf, under the authority of that federal bond by which their existence as an independent people is bound up together, and is known and acknowledged by the nations of the world, and with that good faith which is every man's surest guide, within their several offices, jurisdictions and vocations, they carry into effect the said definitive articles, and every clause and sentence thereof, sincerely, strictly and completely.

GIVEN under the seal of the United States. Witness his Excellency THOMAS MIFFLIN, our president, at Annapolis, this fourteenth day of January, in the year of our Lord one thousand seven hundred and eightyfour, and of the sovereignty and independence of the United States, the eighth.

(L. C. S.) THOMAS MIFFLIN.

CHARLES THOMSON, *Secretary*.

At a General Assembly, begun and held at Tarborough, on the eighteenth day of November, Richard Casber, in the year of our Lord one thousand seven hundred and eightyseven, and in the well, Esq. gov- twelfth year of the independence of the said State: Being the first session of the ernor. said Assembly.

An act declaring the treaty of peace between the United States of America and the King of Great Britain, to be part of the law of the land.

1. *Be it enacted, &c.* That the articles of the definitive treaty between the United States of America and the King of Great Britain, are hereby declared to be part of the law of the land. Treaty with G. Britain to be the law of the land.
2. *And be it further enacted,* That the courts of law and equity are hereby declared in all causes and questions cognizable by them respecting the said treaty to judge accordingly. Courts to judge accordingly.



BANKS.

BANK OF CAPE FEAR.

AN ACT FOR ESTABLISHING A BANK IN THE TOWN OF WILMINGTON.

(Passed in the year 1804.)

WHEREAS the increase of population and commerce in the districts of Wilmington and Fayetteville, renders it expedient that a bank should be established for their accommodation in the town of Wilmington :

1. *Be it enacted, &c.*, That a bank shall be established in the town of Wilmington, the capital stock whereof shall not exceed two hundred and fifty thousand dollars, divided into shares of one hundred dollars each ; but in the mean time, subscriptions towards constituting one hundred thousand dollars of said stock shall be opened ; that is to say, at Wilmington on the first Monday in April next, for five hundred shares, under the superintendence of George Hooper, John London, John Hill, John Hogg, Richard Bradley, William Giles and Henry Watters ; and on the same day at Fayetteville, for five hundred shares, under the superintendence of John Winslow, David Anderson, William B. Grove, Duncan M'Leran, Robert Holliday, Peter Perry and Simeon Belden. And a majority of said commissioners, at the places above mentioned respectively, shall be sufficient to perform the duties of their appointment ; and it shall be competent for the corporation created by this act to proceed to fill up, in whole or part, the remaining fifteen hundred shares, by subscriptions to be opened at the above places, respectively, at such time, and under such commissioners, as they may appoint, giving three months notice thereof in the Wilmington, Newbern and State Gazettes.

2. *And be it further enacted*, That the amount of the share or shares subscribed for shall be paid by the several and respective subscribers, in gold or silver, onefourth thereof at the time of subscribing, to the said commissioners, and onefourth within sixty days after the bank shall go into operation, onefourth within one hundred and twenty days, and onefourth in six months, to the bank directors for the time being : *Provided always*, That it shall be lawful for any subscriber to pay the whole of his subscription money, or any greater part than is hereby required, before the

Forfeiture on failure to pay.

Subscribers incorporated.

time limited for the same ; and each and every subscriber so paying in advance, shall have a discount at the rate of six per centum per annum on such advance, computing from the commencement of the operation of the said bank ; and any person or persons failing to pay any instalment at the time herein appointed, shall forfeit to the corporation the sum or sums by him or them before paid, and shall thenceforth cease to be a member thereof ; and it shall be competent for the corporation to supply any deficiency occasioned by any such delinquency, by sale or otherwise, as they may deem proper.

3. *And be it further enacted*, That the subscribers to the said bank, their successors and assigns, 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 President, Directors and Company of the Bank of Cape Fear," and shall so continue until the first day of January, one thousand eight hundred and twenty, 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 and their successors, lands, rents, tenements, hereditaments, goods, chattels and effects, to an amount not exceeding in the whole (including the amount of the capital stock aforesaid) six hundred thousand dollars, 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 whatsoever ; and also to make, have and use, a common seal, and the same to break, alter and renew at their pleasure ; and also to ordain, establish and put in execution, such bylaws, ordinances and regulations, as shall seem necessary for the government of the said corporation, not being contrary to the constitution of this State, or of the United States, or of the said corporation ; for which purpose, general meetings of the stockholders shall and may be called by the directors as hereinafter specified, and generally to do and execute all such acts, matters and things as to them shall and may appear necessary : subject nevertheless to the rules, regulations and restrictions hereinafter declared and prescribed.

To be eleven directors elected yearly.

4. *And be it further enacted*, That for the well ordering of the affairs of the said corporation, there shall be eleven directors, being citizens of this State, of whom at least seven shall be residents of Wilmington, or within fifteen miles thereof, elected yearly by the stockholders, at a general meeting to be held annually at Wilmington, on the first Monday in January ; provided the first election of directors shall not be included in the before mentioned general regulation, but shall be held at the time and in the manner hereinafter directed ; and provided that in case it should at any time happen that an election of directors should not be made on any day when pursuant to this act it ought to have been made, the said corporation shall not for that cause be dissolved, but it shall be lawful on any other day within ten days thereafter, to hold and make an election for directors, in such manner as shall be regulated by the laws and ordinances of the said corporation ; and

The corporation not to dissolve if directors be not elected.

that in case of the death, resignation or absence from the State, of any director, his place shall be filled up by a new choice for the remainder of the year by a majority of the directors.

5. *And be it further enacted,* That on the first day of May next, and every thirty days thereafter, if the subscription shall not be sooner closed, the commissioners appointed at Fayetteville, shall transmit and deliver to the commissioners appointed at Wilmington, a list of the several subscribers at such place, and the share or shares to each and every subscriber belonging, together with the full amount of the subscription money by the said commissioners received as aforesaid; for which amount the receipt in writing of the said commissioners appointed in and for the town of Wilmington, or a majority of them, shall be a sufficient acquittance and discharge to the persons respectively paying the same; and as soon as the sum of twentyfive thousand dollars in the manner aforesaid shall be actually received on account of the subscription to the said capital stock of the said bank, notice thereof shall be given by the commissioners appointed in and for the town of Wilmington, in the Wilmington and State Gazettes, and the same persons shall at the same time notify a time and place within the said town at the distance of twenty days from the time of such notification, for proceeding to the choice of directors; and it shall be lawful for such election to be then and there made, and the eleven persons who shall then and there be chosen, shall be the first directors and shall be capable of serving until the first Monday in January thereafter or until their successors shall be duly elected; and the said directors shall forthwith commence the operations of the said bank at the town of Wilmington.

The manner of conducting the subscription.

When \$25,000 subscribed the bank to go into operation.

6. *And be it further enacted,* That it shall be lawful for the corporation to establish a branch of said bank, whensoever they shall think fit, at and in the town of Fayetteville, for the purpose of discount and deposite only, and upon the same terms and in the same manner as shall be practised at the bank in Wilmington, and to commit the management of the said office or branch, and the making of the said discounts, to such persons under such agreements, and subject to such regulations as they shall deem proper, not contrary to the constitution of this State, the United States, or of this corporation: subscriptions may be made in person or by proxies appointed in writing.

A branch bank may be established at Fayetteville.

7. *And be it further enacted,* That the directors for the time being shall have power to appoint such officers, clerks and servants under them, as they shall deem proper, and regulate their respective duties and compensation, and shall be capable of exercising such other powers and authorities as shall be described, fixed and determined by the laws, regulations and ordinances of the corporation.

Directors to appoint officers, clerks, &c.

8. *And be it further enacted,* That the following rules, restrictions, limitations and provisions, shall form and be the fundamental articles of the constitution of the said corporation: The number of votes to which each stockholder shall be entitled, shall be according to the number of shares he shall hold, one vote for each share;

Fundamental articles of the constitution of the bank.

they shall have a right to vote by a proxy, he being a stockholder : No director shall receive any emolument ; the stockholders may allow a salary or other compensation to the president : No less than five directors shall constitute a board for the transaction of business, of whom the president shall always be one, unless in case of sickness or necessary absence, he shall appoint by a written instrument a director to fill his place : A number of stockholders, not less than twentyfive, being altogether owners of fifty shares, shall have power to demand a general meeting, and the president shall call one within thirty days after the communication of their request : Every cashier shall give bond and security, before he enters on the duties of his office, in the sum of ten thousand dollars, and the other officers, clerks or servants of the corporation, shall give such security as the directors shall require : The stock of the said corporation shall be transferable and alienable, according to such rules and regulations as the corporation shall, from time to time, make for that purpose : Bills, bonds and notes, subscribed by the president, and countersigned by the cashier, shall be binding and obligatory upon the corporation : Half-yearly dividends shall be made of such part of the profits of the bank as shall appear advisable : The total amount of notes emitted or thrown into circulation by the said corporation, together with their debts of every description, shall not at any time exceed the sum of seven hundred and fifty thousand dollars, over and above the moneys then actually deposited in the bank for safe keeping ; and in case of excess, the directors under whose administration it shall happen, shall be liable for the same in their natural private capacities, and an action of debt may in such case be brought against them, or any of them, or their heirs, executors or administrators, in any court of record, by any creditor or creditors of the said corporation, and may be prosecuted to judgment and execution ; any condition, covenant or agreement to the contrary notwithstanding : *Provided*, That any of the directors who may have been absent, or have dissented from the resolution or act whereby such excess was contracted or created, may respectively exonerate themselves from being so liable, by forthwith entering their protest with and before a notary public, and to the stockholders at a general meeting, which they shall have power and are hereby required and directed to call for that purpose : None but a stockholder, being a citizen of this State, shall be eligible as a director : The lands, tenements and hereditaments which it shall be lawful for the said corporation to hold, shall be only such as shall be requisite for its immediate accommodation in relation to the convenient transacting of its business, and such as shall have been bona fide mortgaged to it by way of security, or conveyed to it in satisfaction of debts previously contracted in the course of its dealings, or purchased at sales on judgments, which shall have been obtained for such debts : Nor shall this corporation, directly or indirectly, deal or trade in any thing except bills of exchange, gold or silver bullion, or in the sale of goods really and truly pledged for money lent and not redeemed in due time, or in goods the produce of its

lands ; neither shall the said corporation take more than the rate of a half per centum for thirty days, for or on account of its loans or discounts.

9. *And be it further enacted,* That it shall and may be lawful for the State of North Carolina, at any time within three years from and after the passing of this act, to become interested in said bank, to an amount not exceeding two hundred and fifty shares of one hundred dollars each ; and on the payment into the said bank by the State for any shares she may deem it advisable so to take, it shall be lawful thenceforward for the said corporation to issue notes founded on such extension of capital, in the same ratio as is herein before provided on the original stock created by virtue of this act.

The State may become interested in the bank.

10. *And be it further enacted,* That the commissioners appointed by this act for receiving subscriptions in the town of Wilmington, shall, immediately after a sufficient number of shares are taken, provide a house for carrying on the business of the bank, together with all necessary paper, stationery, vaults and utensils suitable to the same, so that as soon as the directors are chosen, the operations of the said bank may be immediately prosecuted and carried into effect.

A house, &c. to be provided.

(Section 11, repealed by the act of 1814.)

AN ACT TO AUTHORIZE THE TREASURER, IN THE NAME OF THE STATE OF NORTH CAROLINA, TO SUBSCRIBE IN THE BANKS OF CAPE FEAR AND NEWBERN FOR THE NUMBER OF SHARES WHICH THE STATE HAS RESERVED THE RIGHT OF SUBSCRIBING FOR IN EACH OF THE SAID BANKS.

(Passed in the year 1807. So far as regards the bank of Newbern expired, that bank having ceased to exist in 1837.)

1. *Be it enacted, &c.* That the public treasurer be, and he is hereby authorized to subscribe in either or both of said banks, at such time as he shall deem it expedient, and he and the directors of said banks, or either of them, shall agree on, for two hundred and fifty shares of bank stock, on the following terms and conditions, to wit : That he pay at the time of subscribing, out of any moneys of the currency of the State in the public treasury, one-third of the amount of said shares ; that he pay at the expiration of twelve months thereafter one other third of the said amount, and at the expiration of twelve months after the payment of the last mentioned third, the remaining third and full amount of said shares ; and that for the deferred payments he pay an interest, at the rate of four per centum per annum from the time of subscribing : *Provided, however,* that after paying the last instalment to either of the aforesaid banks, the treasurer shall be authorized to borrow therefrom the amount of the said instalments from time to time, on the terms on which loans are made therein, until the dividends received be sufficient to pay off the sum borrowed.

Treasurer to subscribe for 250 shares in each bank.

Manner of paying for the shares.

Treasurer, &c.
to appoint three
directors for
each bank.

2. *And be it further enacted*, That the treasurer, together with the comptroller and secretary, or any two of them, be authorized and empowered to appoint three additional directors of each or both of the banks, in which subscriptions shall be made as aforesaid, and the directors for each or either of said banks so appointed, shall possess the same qualifications, have the same power, and be subject to the same rules, regulations and restrictions as the other directors, which shall be chosen by the stockholders.

The notes of
these banks to
be received in
payment of pub-
lic dues and at
the treasury.

3. *And be it further enacted*, That in case the directors of said banks respectively, or either of them, shall accept of the above-stated terms, and the subscriptions shall be made by the treasurer for the number of shares first above stated, then and in that case the bank-notes of the bank or banks in which the said subscriptions shall be made, shall be and are hereby declared to be receivable in payment of all public dues, and at the public treasury.

Offices of dis-
count may be
established.

4. *And be it further enacted*, That it shall be lawful for the president and directors of each of the aforesaid banks to establish offices of discount, or offices of discount and deposit, at other places than the towns wherein the said banks are fixed, or where by their respective charters, branches may be established; provided that not more than two such offices, other than aforesaid, shall be established and kept in existence by either of the banks at the same time, and that the management of such offices be committed to such persons, and under such agreements, and subject to such regulations as the president and directors respectively may deem proper, not contrary to the constitution of this State, or of the United States, or of the aforesaid corporations. *Provided, also*, that no office of discount, or of discount and deposit, shall be established by either of the said banks, unless they accede to the terms of subscription proposed by this act on the part of the State.

Power to issue
additional
notes.

5. *Be it further enacted*, That the said banks, in consequence of any subscription by the treasurer in behalf of the State, shall have power to issue notes only in the same ratio as that established by their respective charters, that is to say, in the ratio of three for one, on the amount of its capital stock actually subscribed and paid for, over and above the money deposited for safe keeping.

AN ACT TO CONTINUE IN FORCE CERTAIN ACTS CONCERNING THE
BANKS OF CAPE FEAR AND NEWBERN, AND FOR OTHER PURPOSES
CONCERNING THE SAID BANKS.

(Passed in the year 1814. So far as regards the bank of Newbern the act has expired, and it is corrected accordingly.)

1. *Be it enacted, &c.* That the act entitled "An act to establish a bank in the town of Wilmington," passed in the year one thousand eight hundred and four, and all other acts subsequently passed, relating to the management, direction and affairs of said

bank, be, and the same are hereby continued in force until the first day of January, one thousand eight hundred and thirtyfive, except as hereinafter provided for.

2. *Be it further enacted*, That the president and directors of the bank of Cape Fear, shall be, and they are hereby authorized to add to the capital stock of said bank five thousand two hundred and fifty shares of one hundred dollars each. Additional shares.

3. *Be it further enacted*, That the president and directors of the bank of Cape Fear shall within six months after notice given to the governor of this State in the manner hereinafter prescribed, of the acceptance of the amended charter by the stockholders in the said bank, open books for receiving subscriptions to the said stock at the city of Raleigh, and the towns of Wilmington, Newbern, Fayetteville, Edenton, Halifax, Hillsborough, Washington, Warrenton, Salisbury, Tarborough, Morganton, Pittsborough, Salem, Rutherfordton, Plymouth, Murfreesborough and Greensborough, and in Nash county; and keep the same open for receiving subscriptions to the said stock until the whole stock authorized by this act shall be subscribed. But all shares not subscribed for within forty days after opening the books as aforesaid shall be sold and disposed of by the said president and directors at such price as they may think proper, not exceeding an advance of ten dollars on each share; and purchasers of shares after the expiration of the said forty days shall pay down at the time of subscribing, with the first instalment, the advance required by the said president and directors, and shall then stand upon the same footing with those who subscribe within the said forty days according to the payments they may have made. Places for opening books of subscription.

4. *Be it further enacted*, That ten dollars upon each share subscribed shall be paid at the time of subscribing, and the remaining ninety dollars in payments of ten dollars every sixty days thereafter until the whole shall be paid; the said deferred payments bearing interest at the rate of six per centum per annum until paid; and it shall be at the option of each subscriber to fill up his share or shares by payment of the residue of the money due thereon; and each subscriber paying in advance shall have a discount at the rate of six per centum per annum on such advance. When fifty dollars on any share shall be paid, the holder thereof shall be entitled to receive dividends on the whole share; and on failure to make payment punctually of any of the said first-mentioned five instalments on every share, the subscriber so failing shall forfeit to the use of the company, all the money that has been previously paid on such share: and such share shall be sold by the president and directors for the benefit of the company, but there shall be no forfeiture after the payment of fifty dollars on each share. Times for payments.
Shares forfeited.

5. *Be it further enacted*, That the president and directors of said bank shall at all times from and after the passing of this act and during the continuance of the same, be bound and obliged to make a loan or loans to the State of North Carolina, if required and authorized by law, of any sum or sums of money not exceeding in the whole at any one time one tenth part of the actual stock Bank required to loan the State.

of said bank, and at a rate of interest not exceeding six per centum per year to be paid yearly : *Provided*, that it shall be the duty of the treasurer to make application in writing to the president and directors of said bank for such loan or loans at least three months previous to the time when such loan or loans shall be required.

1,000 shares reserved to the State.

6. *Be it further enacted*, That of the shares hereby allowed to be subscribed to the stock of the said bank, one thousand shares shall be reserved for this State and subscribed by the treasurer immediately upon the opening of the books for receiving subscriptions as aforesaid : and as a consideration of this amended charter granted to the said bank, the State shall be entitled to one hundred and eighty shares of the said one thousand shares in the bank aforesaid, without paying any thing therefor ; and at the expiration or earlier dissolution of the charter, the president and directors of the bank shall pay to the treasurer for the use of the State the same rate of dividend on the said shares, together with the shares, as may be paid to other stockholders ; and shall be entitled to make payment for four hundred and ten shares in the said bank in treasury notes to be issued as hereinafter directed ; and shall be entitled to make payment for the remaining four hundred and ten shares at any time or times she may think proper during the continuance of this act, and shall not be bound to pay to the said bank interest upon the shares not paid for. But the interest which may accrue thereon shall be accounted for as hereinafter directed.

Dividends accruing to the State.

7. *Be it further enacted*, That the State shall be entitled to receive full dividends upon the one hundred and eighty shares, mentioned in the preceding section : and like dividend upon four hundred and ten shares, to be paid for in treasury notes after the second dividend to be declared by the said president and directors after the first day of February next ; and from and after the declaration of the said second dividend, the State shall be entitled to receive whatever sum shall accrue upon the remaining four hundred and ten shares over and above six per centum per year, and the same dividend shall be declared upon the said remaining shares, as upon shares which have been fully paid for.

Election of stockholders.

8. *Be it further enacted*, That at all meetings of the stockholders of the said bank, and at all elections for directors, the governor for the time being, or such other person or persons as he or the legislature may from time to time appoint, shall act on behalf of the State ; and shall have the same number of votes, to which the greatest number of stockholders may be entitled possessing an equal number of shares, with those owned by the State at the time of such election ; and the number of votes to which each stockholder shall be entitled, except the State, shall be according to the number of shares he shall hold in the proportions following, that is to say : for one share and not more than two shares one vote ; for every four shares above ten, and not exceeding thirty, one vote ; for every six shares above thirty, and not exceeding sixty, one vote ; for every eight shares above sixty, and not exceeding one hundred, one vote ; and for every ten shares above one hundred, one vote ; but no person, copartnership or

body politic shall be entitled to a greater number than thirty votes. No share or shares shall confer a right of suffrage which shall not have been holden three calendar months previous to the day of election. Stockholders actually resident within the State, and none other may vote in elections, and at general meetings of the stockholders, by proxy; none but a stockholder being a citizen of the State, and holding at least ten shares, shall be eligible as a director of the principal bank, nor shall a director of any other bank, be eligible as a director of the said bank. Eleven principal directors shall be elected by the stockholders at their annual meeting for the well ordering of the affairs of the said corporation, seven of whom shall reside in the town of Wilmington. The board of principal directors shall appoint annually the directors of the several branches and agencies; and other officers required at the said branches and agencies.

A number of stockholders not less than thirty, who together shall be proprietors of one hundred shares or upwards, shall have power at any time to demand a general meeting of the stockholders for purposes relative to the said corporation: And upon such demand the president of the bank shall call such meeting, giving at least four weeks' notice in a public gazette published in the city of Raleigh, and specifying in such notice, the object or objects of such meeting. Calling of stockholders.

Every cashier of the said bank before he enters upon the duties of his office shall be required to give bond with two or more securities to the satisfaction of the directors, in a sum not less than ten thousand dollars with condition for his good behavior. Cashiers shall give bond and security.

The total amount of the debts which the said corporation shall at any time owe, whether by bond, bill, note or other contract, shall not exceed the sum of two millions four hundred thousand dollars, over and above the sum then actually deposited in the said bank for safe keeping, unless the contracting of any greater debt shall have been previously authorized by a law of this State. Restriction in discounts.

In cases of excess, the directors under whose administration it shall happen shall be liable for the same in their natural and private capacities; and an action of debt may in such case be brought against them, or any of them, their or any of their heirs, executors or administrators, in any court of record of this State, by any creditor or creditors of said corporation, and may be prosecuted to judgment and execution: any condition, covenant or agreement to the contrary notwithstanding: But this shall not be construed to exempt the said corporation, or the lands, tenements, goods, or chattels of the same from being also liable and chargeable with the said excess; such of the said directors who may have been absent when the said excess was contracted, or created, or may have dissented from the resolution or act, whereby the same was so contracted or created, may respectively exonerate themselves from being so liable, by forthwith giving notice of the fact, and of their absence or dissent, with or before some notary public, and to the stockholders at a general meeting, which they shall have power to call for that purpose. Directors liable in certain cases.

When required, treasurer to be furnished with a statement of the situation of the bank.

The treasurer of this State shall be furnished from time to time, as often as he may require, not exceeding once in three months, with a statement of the amount of the capital stock of the said corporation, and of the debts due; of the moneys deposited, of the notes in circulation, and of the cash on hand, and shall have a right to inspect such general accounts in the books of the corporation, as shall relate to the said statements: Provided, that this shall not be construed to a right of inspecting the account of any private individual or individuals with the said bank.

(Sec. 9, obsolete.)

Parts of former acts repealed, and the bank prohibited from issuing notes less than one dollar.

10. *Be it further enacted*, That the president and directors of the said bank of Cape Fear shall not issue any note or notes under the sum of one dollar; and from and after the first day of July next, the eleventh section of an act passed in the year one thousand eight hundred and four, entitled "An act to establish a bank in the town of Wilmington," shall be repealed and made void.

(The rest of this section has had its operation.)

Tax of one per cent.

11. *Be it further enacted*, That a tax of one per cent. per annum shall be levied on all stockholders in the bank of Cape Fear except on the stock holden by this State, which shall be paid to the treasurer of this State, by the president or cashier of said bank, on or before the first day of October in each and every year.

(Sect. 12, relating to the issue of treasury notes for payment of stock, has had its operation.)

Acceptance of this act to be communicated to the governor.

13. *Be it further enacted*, That the president of the bank of Cape Fear shall make known to the governor of this State in writing, within four months after the first day of January next, the acceptance of this amended charter; and in case of failure to do so, this act and every part thereof shall become void, and of none effect.

(Sections 14, 15 and 16 of this act never had any effect, their provisions being conditional and temporary and are therefore omitted.)

Branches or agencies.

17. *And be it further enacted*, That the president and directors of said bank may establish branches or agencies of their said bank at such place or places within this State, as they may think proper, and commit the management of said branches and agencies and the making discounts thereat to such persons as they may deem proper: *Provided*, that at each branch or agency so to be established, there shall be appointed not less than three directors, and that no such branch or agency shall be removed after its establishment unless directed by the stockholders in their general meeting.

AN ACT TO PROVIDE FOR THE REPRESENTATION OF THE STOCK OF THIS STATE IN MEETINGS OF THE STOCKHOLDERS OF THE BANKS OF THIS STATE.

(Passed in 1823.—Repealed by the provisions of the act of 1833; so far as regards the bank of Cape Fear.)

AN ACT TO ENABLE THE BANKS OF NEWBERN AND CAPE FEAR
TO WIND UP GRADUALLY AND TO FIX A UNIFORM RATE OF COL-
LECTION.

(Passed in 1829.—Repealed so far as regards the bank of Cape Fear in 1833.)

AN ACT TO RECHARTER THE BANK OF CAPE FEAR.

(Passed in the year 1833.)

Whereas, by the provisions of an act, passed in the year of our Lord one thousand eight hundred and four, entitled, "An act for establishing a bank in the town of Wilmington," the subscribers to the stock of said bank were incorporated under the name and style of the "President, Directors and Company of the Bank of Cape Fear;" and whereas, by a subsequent act, passed in the year of our Lord one thousand eight hundred and fourteen, entitled "An act concerning the banks of Cape Fear and Newbern," the capital of said bank was increased, and its existence as a corporation extended to the first of January, in the year of our Lord one thousand eight hundred and thirtyfive; and whereas it is expedient now to continue the corporate privileges of the said bank for a further term:

Be it therefore enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That the stockholders in the said bank, their successors and assigns, shall be, and continue a body corporate, in law and in fact, under the name and style of the "President, Directors and Company of the Bank of Cape Fear," with a capital stock of eight thousand shares, of one hundred dollars each, until the first day of January, one thousand eight hundred and fiftyfive; and by the name and style aforesaid, 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, to an amount not exceeding in the whole, including the amount of capital stock aforesaid, two millions four hundred thousand dollars, 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 whatsoever; and also to make, have and use a common seal, and the same to break, alter and renew at their pleasure; and also to ordain, establish and put into execution such bylaws, ordinances and regulations, as shall seem necessary for the government of the said corporation, not being contrary to the constitution of this State or of the United States, or of the said corporation; for the making whereof general meetings of the stockholders may be called by the directors, as hereinafter specified; and generally to do and execute all such acts, matters and things, as to them shall and may

Corporation continued with a capital of 8,000 shares, until January 1, 1855.

appear necessary, subject, nevertheless, to the rules, regulations and restrictions hereinafter declared and prescribed.

How the State shall be represented in meetings of stockholders, &c.

2. *Be it further enacted*, That at all meetings of the stockholders of the said bank, and at all elections for directors, the governor for the time being, or such other person or persons as he or the legislature may from time to time appoint, shall act on behalf of the State, and shall have the same number of votes to which the greatest number of stockholders may be entitled, possessing an equal number of shares with those owned by the State at the time of such election; and the number of votes to which each stockholder shall be entitled, except the State, shall be according to the number of shares he shall hold, in the proportions following: that is to say, for one share, and not more than two shares, one vote; for every two shares above two, and not exceeding ten, one vote; for every four shares above ten, and not above thirty, one vote; for every six shares above thirty, and not exceeding sixty, one vote; for every eight shares above sixty, and not exceeding one hundred, one vote; and for every ten shares above one hundred, one vote; but no person, copartnership, or body politic, shall be entitled to a greater number than sixty votes, nor shall any share or shares confer a right of suffrage, which shall not have been holden three calendar months previous to such meeting; nor shall any stockholder be entitled to vote in elections, or any general meeting, by proxy, unless he be actually a resident within the State.

Stockholders how to vote.

How to call a general meeting of stockholders.

3. *Be it further enacted*, That any number of stockholders, not less than thirty, who together shall be proprietors of one hundred shares or upwards, shall have power, at any time, to demand a general meeting of the stockholders, for purposes relating to the said corporation; and upon such demand, the president of the bank shall call such meeting, giving at least four weeks' notice in a public gazette published in the city of Raleigh, and specifying in such notice the object or objects of such meetings.

Number of directors, and how to be elected.

4. *Be it further enacted*, That for the well ordering the affairs of the said corporation, there shall be eleven directors, being citizens of this State, of whom at least seven shall be residents of Wilmington, or within fifteen miles thereof, elected yearly by the stockholders, at a general meeting to be held annually at Wilmington, on the first Monday in January; *Provided*, that in case it should at any time happen that an election of directors should not be made upon the day when, pursuant to this act, it ought to have been made, the said corporation shall not for that cause be dissolved, but it shall be lawful, on any other day, within ten days thereafter, to make an election for directors, in such manner as shall be regulated by the law and ordinances of the said corporation; and that in case of the death, resignation or absence from the State of any director, his place shall be filled by a new appointment, for the remainder of the year, by a majority of the directors.

Proviso.

Election of president.

5. *Be it further enacted*, That the president of the bank, being a director, shall be chosen by a majority of the directors, with a

a director, shall be chosen by a majority of the directors, with a salary to be fixed by the stockholders in general meeting ; and the president and directors of the principal bank for the time being shall have power to establish branches or agencies of the said bank at such place or places within this State, as they may think proper, and commit the management of such branches or agencies and the making discounts thereat, to such persons as they may select : *Provided*, that at each branch or agency so established there shall be appointed not less than three directors, and that no branch or agency now existing, or which may hereafter be established, shall be removed, unless directed by the stockholders in general meeting : *And provided also*, that the president and directors shall establish a branch or agency of said bank in the city of Raleigh when thereto required by the General Assembly.

President and directors may establish branches, &c.

Proviso.

Further proviso.

6. *Be it further enacted*, That the president and directors for the time being shall have power to appoint such officers, clerks and servants at the principal bank and at their several branches and agencies, as they shall deem proper, and shall regulate their respective duties and compensation, and shall exercise such other powers and authorities as shall be described, fixed and determined by the bylaws, regulations and ordinances of the corporation.

The appointment of officers and their salaries.

7. *Be it further enacted*, That every cashier of the said bank, branch or agency, before entering on the duties of his office, shall give bond and security in a sum not less than twentyfive thousand dollars ; and every clerk and other officer shall give bond and security for such sum as the directors may require.

Cashier, &c. to give bond.

8. *Be it further enacted*, That the total amount of debts which the said corporation shall at any time owe, whether by bond, bill, note or other contract, shall not exceed the sum of one million six hundred thousand dollars over and above the sum then actually deposited in the said bank for safe keeping, unless the contracting of any greater debt shall have been previously authorized by a law of this State, and in case of excess, the directors under whose administration it shall happen, shall be liable for the same in their natural and private capacities, and an action of debt may in such case be brought against them, or any of them, their or any of their heirs, executors or administrators, in any court of record in this State, by any creditor or creditors of said corporation, and may be prosecuted to judgment and execution ; any condition, covenant or agreement to the contrary notwithstanding ; nor shall this be construed to exempt the said corporations, or the lands, tenements, goods or chattels of the same, from being also liable and chargeable with the said excess ; but such of the said directors as may have been absent when the said excess was contracted, or may have dissented from the resolution or act whereby the same was so contracted or created, may respectively exonerate themselves from being so liable by forthwith giving notice of the fact, and of their absence or dissent, before or with some notary public, and to the stockholders at a general meeting which they shall have power to call for that purpose.

Limit of debt due from the Bank.

In case of excess, directors may be personally liable.

Exception.

Bank bound to make loans to the State.

9. *Be it further enacted*, That the president and directors of the said bank shall at all times, from and after the passing of this act, and during the continuance of the same, be bound and obliged to make a loan or loans to the State of North Carolina, if required and authorized by law, of any sum or sums of money, not exceeding in the whole, at any one time, one tenth part of the actual capital stock of said bank, and at a rate of interest not exceeding six per cent. per year, to be paid half yearly: *Provided*, that it shall be the duty of the public treasurer to make application in writing for such loan or loans at least three months previous to the time when they may be required.

Proviso.

Statement to be furnished public treasurer, &c.

10. *Be it further enacted*, That it shall be the duty of the treasurer of the State to require from time to time not exceeding once in six months, which shall be furnished by the president of the said corporation, a statement of the amount of the capital stock of the said corporation, the debts due to the same, the moneys deposited, the notes in circulation, and the cash on hand; and shall have a right to inspect such general accounts on the books of the said corporation as shall relate to the said statements.

Proviso.

Provided, that this shall not be construed to be a right to inspect the accounts of private individuals, except the directors, with the said bank.

Tax upon the stock.

11. *Be it further enacted*, That a tax of twentyfive cents on each share of stock owned by individuals in the said bank shall be annually paid into the treasury of the State, by the president or cashier of said bank, on or before the first day of October in each year; and the said bank shall not be liable to any further tax.

Fundamental articles.

12. *Be it further enacted*, That the following rules, restrictions, limitations and provisions shall form and be the fundamental articles of the constitution of the said corporation. The stock of

Stock transferable.

the said corporation shall be transferable and alienable as heretofore, or according to such rules and regulations as shall hereafter be established by the president and directors for that purpose. Bills, bonds and notes subscribed by the president and countersigned by the cashier, promising the payment of money to any person or persons, his, her or their order, or to bearer, with or without the seal of the said corporation, shall be binding and obligatory upon the same; and if any person or persons holding any note or notes of the said bank, shall present the same for payment at the principal bank or either of its branches, where such notes are payable, and the payment shall be refused, the said note or notes shall draw interest from the time of such demand, at the rate of six per cent. per annum, and six per cent. per annum for damages, and the said bank shall pay the same; any law to the contrary notwithstanding; but it shall not be lawful for the said bank to issue any note for a smaller sum than three dollars. Half yearly dividends shall be made of such part of the profits of the bank as shall appear advisable to the stockholders or to the president and directors for the time being. The lands, tenements and hereditaments which it shall be lawful for the said corporation to hold, shall be only such as the corporation now holds, or such as shall be requisite for its accommodation in relation to the convenient

Bills, bonds, &c. to be binding, and shall draw interest from the time presented until paid.

No note under three dollars to be issued. Dividends to be made half yearly.

Restriction in holding property.

transacting of its business, and such as are now or shall be bona fide mortgaged to it by way of security, or conveyed to it in satisfaction of debts previously contracted in the course of its dealings, or purchased at sales under judgments which shall have been obtained for such debts; nor shall this corporation directly or indirectly deal or trade in anything except bills of exchange, bonds and notes, gold or silver bullion, mint certificates, public debt of the United States, stock of the bank of the United States, or such other bank as may be hereafter established by a law of the United States, *Provided*, that investments in such stock shall not at any one time exceed one half of the capital stock of the bank hereby created, or in the sale of goods really and truly pledged for money lent and not redeemed in due time, or in goods the produce of its lands; neither shall this corporation take more than at the rate of half per centum for thirty days for on account of its loan or discount. No less a number than five directors shall constitute a quorum for the transaction of business at the principal bank, of whom the president shall always be one, unless in case of sickness or necessary absence, when he shall appoint, by a written instrument, a director to fill his place; and no director shall receive any emolument.

In what the bank shall trade.

Proviso.

Rate of per cent. on loans.

No. of directors requisite to form a quorum.

13. *Be it further enacted*, That it shall not be lawful for the said president and directors to discount any bond or promissory note, unless the same be made payable and negotiable at the said bank, or some of its branches or agencies.

No note to be discounted unless made payable, &c. at the bank, or branches.

14. *Be it further enacted*, That if any director or officer of said bank shall steal, purloin, embezzle, or in any way act fraudulently with the funds of the said bank, it shall be deemed felony, and upon conviction thereof, shall be punished by fine and imprisonment, putting in the pillory, and whipping on the bare back not exceeding thirty lashes; all or either of them at the discretion of the court.

Fraud of any director or officer deemed felony, &c.

15. *Be it further enacted*, That the cashier shall keep a book to contain the proceedings of the board of directors, the names of those present, the day and date of each meeting, and shall record the yeas and nays on any question, when asked for by any director. This book shall be evidence in courts of justice; and on entering on the discharge of his duties, the cashier shall take the following oath or affirmation before some justice of the peace, by whom it shall be returned to the office of the clerk of the county court:—
“I, A. B. do solemnly swear (or affirm as the case may be) to keep a just and true record, without alteration or erasures, of the transactions of the board of directors of the Bank of Cape Fear, in a book to be kept by me for that purpose.”

Cashier shall keep a book to contain the proceedings of the board of directors, which shall be evidence in courts.

And whereas a part of the capital stock hath heretofore been purchased in by the president, directors and company of the said bank, and merged, pursuant to an act, passed in the year one thousand eight hundred and twentynine, entitled “An act to enable the banks of Newbern and Cape Fear to wind up gradually, and to fix a uniform rate of collection,” so that the amount of the active capital stock of the said bank is at this time only four

Preamble.

thousand nine hundred and seventythree shares of one hundred dollars each ; and whereas commercial necessity renders it desirable that the capital stock of the said bank of Cape Fear should consist of eight thousand shares, of one hundred dollars each, the same being its former capital :

Stockholders shall be convened, and may open books to renew shares heretofore merged.

16. *Be it further enacted*, That the president and directors shall convene, by public notice, the stockholders of the bank, at some time between the passage of this act and the first day of July next, for the purpose of ascertaining whether they wish to renew the shares of stock heretofore merged or purchased up by the bank, or whether they prefer the capital to remain at what it now is ; and in case the stockholders determine to renew the shares heretofore merged, that is, to increase their capital to its original amount of eight thousand shares, of one hundred dollars each, then it shall be the duty of the president and directors forthwith to appoint a day or days, within four months thereafter, for opening of books to receive subscriptions for the shares heretofore merged ; and they shall open books for that purpose at the city of Raleigh, and in the towns of Wilmington, Fayetteville, Newbern, Edenton, Hillsboro', Salem, Salisbury, Charlotte, Elizabeth city, Halifax, Tarborough, Warrenton, Milton, Lincolnton, Morganton, Washington, Wadesboro', Murfreesboro' and Windsor, under the direction of two or more commissioners appointed for that purpose, and the same keep open for subscriptions for thirty days ; and if a greater number of shares shall be subscribed for than is provided to be sold by this act, the president and directors of the principal bank shall reduce the subscription to the proper number of shares, by striking off the requisite number from the largest subscriptions ; but if the whole number of shares provided by this act be not subscribed within the said thirty days, then it shall be lawful for the said president and directors, by and with the consent of the stockholders, at any subsequent time, to re-open books of subscription, at the same places, for the residue.

If the whole amount be not subscribed, books may be re-opened.

Repeals part of former act, and prescribes how shares shall be paid.

17. *Be it further enacted*, That the fourth section of the act of one thousand eight hundred and fourteen be, and the same is hereby repealed ; and that the shares subscribed as aforesaid shall be paid in as follows, that is : one-fifth at the time of subscribing ; one-fifth at the end of three months thereafter ; another fifth at the end of six months after the first payment ; one-fifth at the end of nine months after the first payment ; and the remaining fifth at the end of twelve months after the first payment : *Provided*, that no part of the subscription shall be paid in the notes of the aforesaid bank, but shall be paid in specie or in funds equivalent to specie : *Provided*, that no dividend on the profits shall be declared on the additional stock hereby authorized to be taken until the whole amount of said stock shall be realized to the bank in gold or silver, or its equivalent.

Proviso.

Further proviso.

Limits the issues of the bank.

18. *Be it further enacted*, That the said bank shall not issue more than twice the amount of the capital stock at the time actually paid in specie or its equivalent.

Part of former acts repealed.

19. *Be it further enacted*, That the seventh section of the

before mentioned act of one thousand eight hundred and fourteen, imposing a tax of one per cent. upon all the stockholders in said bank, and every section of the act, passed in the year of our Lord one thousand eight hundred and twentynine, entitled "An act to enable the banks of Newbern and Cape Fear to wind up gradually, and fix a uniform rate of collection," and every other act or parts of acts coming within the meaning and purview of this act, or the before recited acts of one thousand eight hundred and fourteen and one thousand eight hundred and four, so far as regards the bank of Cape Fear, be, and the same are hereby repealed: *Provided*, Proviso. that nothing in this act shall be so construed as to affect in any manner the right of the State in regard to the tax heretofore due.

20. *Be it further enacted*, That the president of said bank shall give notice to the governor of this State of the acceptance of this extension of charter by the stockholders thereof, within six months after the passage of this act; otherwise this act shall be null and void. Notice of the acceptance of this act to be given to the governor.

21. *Be it further enacted*, That it shall be the duty of the president of the bank, in the first week in December of each and every year, to transmit to the legislature a full and correct statement of the condition of the bank, shewing the amount of capital; notes in circulation, and from what places issued; debts due to other banks, and to what banks; and all other particulars necessary to shew the true condition of the debit side of the account; also specie on hand; debts due from other banks, and what banks; the amount of notes or bonds discounted, and of bills of exchange, shewing in one item the amount due from directors, and in another the amount due from stockholders, but in no case using names of persons; real estate; and all other particulars necessary to shew the true condition of the credit side of the said account. Annual statements to be communicated to the legislature.

22. *Be it further enacted*, That if any president, cashier, clerk, or other officer of the bank, or any of its branches or agencies, shall knowingly and willingly make, cause to be made, or connive at making, any false return, statement, or exhibit of the condition of the bank, its branches or agencies, either to the public treasurer, to the General Assembly, to the board of directors of the principal bank, or any of its branches or agencies, or to the stockholders, or to any person or persons authorized by the legislature, or by the stockholders, to receive the same, such person or persons so offending, their aiders and abettors in such false return or deception, shall be deemed guilty of a misdemeanor, and on conviction in any of the superior courts of law in this State, shall be punished by a fine at the discretion of the court, and by imprisonment not longer than one year. Penalty for making false returns.

23. *Be it further enacted*, That in all loans or discounts which shall hereafter be made upon the pledge of the scrip of the stock of any stockholder in said bank, the renewal payments upon such loan or loans shall be the same as shall be required by the rules of the bank upon discounts or loans upon personal security. Of loans upon the pledge of stock.

AN ACT TO AMEND THE CHARTER OF THE BANK OF CAPE FEAR.

(Passed in the year 1834.)

Be 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 stockholders in the bank of Cape Fear, who reside in any one of the United States, who shall be citizens thereof, shall have power and right to vote for themselves, or by proxy, at all meetings of the stockholders of said bank, in the same manner and under the like rules and regulations which are or may be prescribed, concerning the stockholders who reside in this State.

Stockholders residing in any one of the U. States, may vote.

Repealing clause.

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

Bank shall receive public money in deposit.

3. *Be it further enacted,* That the said corporation shall at all times receive in deposit, at their principal bank, or any of the branches or agencies thereof, as much of the public money as the treasurer of the State shall offer to deposit in said bank to his credit: *Provided, however,* That it shall not be obligatory upon the treasurer, or upon the State, to make deposits in said bank.

Proviso.

When to be in force.

4. *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.

AN ACT CONCERNING THE BANK OF CAPE FEAR.

(Passed at the session of 1836.)

Be it enacted by the General Assembly of the State of North Carolina, and is hereby enacted by the authority of the same, That the act, entitled "An act to recharter the bank of Cape Fear," passed by the General Assembly in the session of 1833—1834, be, and the same is hereby continued in force until the first day of January, in the year of our Lord, one thousand eight hundred and sixty.

Limitation of charter.

Meeting of stockholders.

2. *Be it further enacted,* That the president and directors shall convene, by public notice, the stockholders of the bank, at some time between the passage of this act and the first day of April next, for the purpose of ascertaining whether they wish to increase the capital stock of the said bank; and in case they determine to increase the capital stock, there shall be added seven thousand shares, of one hundred dollars each, so as to make the capital stock of said bank one million five hundred thousand dollars; of which increased capital, the State of North Carolina shall be entitled to subscribe three thousand shares, and individuals and corporations the remaining four thousand shares.

Increase of capital.

3. *Be it further enacted*, That if the stockholders shall assent to the increase of the capital stock aforesaid, the president and directors shall, within one month after the acceptance of this charter, open books of subscription, under the direction of two or more commissioners, to be by them designated, at the city of Raleigh, and in the towns of Wilmington, Fayetteville, Newbern, Edenton, Hillsboro', Salem, Salisbury, Charlotte, Elizabeth City, Halifax, Tarboro', Lincolnton, Morganton, Washington, Wadesboro', Wilkesboro', Greensborough, Rutherfordton, and Oxford, and the same to keep open for subscription for ten days; and if it shall happen, when the books shall be opened as aforesaid, that a greater number than four thousand shares shall be subscribed by individuals, or bodies corporate, it shall be lawful for the president and directors to reduce such subscriptions, according to a scale by them to be established for that purpose, to the aforesaid number of four thousand shares: *Provided*, that no subscriptions of two shares or under, shall be scaled until all larger subscriptions shall be reduced to an equality with them: *Provided also*, that if the four thousand shares be not subscribed within ten days as aforesaid, it shall be lawful for the stockholders, at any future time, to open books of subscription, at the same places, under the same restrictions, for the residue: *Provided*, that nothing herein contained shall compel the president and directors to open books for a subscription of more than two thousand shares, until after the first day of January, 1838.

Books of subscription to be opened.

Provision for re-opening books.

4. *Be it further enacted*, That when the capital stock shall be increased as aforesaid, the said president, directors and company of the bank of Cape Fear, 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, good, chattels and effects to an amount not exceeding three millions of dollars, exclusive of their capital stock aforesaid, with the same privileges as are prescribed in the act of 1833.

Amount of property which corporation may hold.

5. *Be it further enacted*, That when the said seven thousand shares shall be fully paid for, according to the provisions of this act, the representative of the State, whom the governor, secretary of state and comptroller, shall designate, may appoint four directors of said bank, who are stockholders, and the individual stockholders may appoint seven directors. And in all general meetings of the stockholders, the representative of the State appointed as aforesaid, shall be entitled to three votes for every six given by individual stockholders.

The appointment of directors, &c.

6. *Be it further enacted*, That the said bank, within one year from the payment of the subscriptions by the State aforesaid, shall establish two or more additional branches in this State; neither of which shall be less than one hundred miles distant from the principal bank, and one of which shall be west of the Yadkin.

Additional branches required to be established.

7. *Be it further enacted*, That not less than three directors shall constitute a quorum, for the transaction of business at the principal bank; of whom the president shall be one, unless in case of sickness or necessary absence; when he shall appoint,

Directors quorum of, &c.

by a written instrument, a director to fill his place. And in case of death, resignation, or removal from the State, of any director, his place shall be filled by a new appointment for the remainder of the year, by a majority of the directors; Provided, that no person shall be eligible as a director, who is not the owner of ten shares or more of the capital stock of the bank.

Amount of debt which the corporation may owe.

8. *Be it further enacted*, That the total amount of debt, which the said corporation shall at any time owe, shall not exceed twice the amount of its capital, over and above its capital stock, and the sum then actually deposited in the bank for safe keeping, unless the contracting of any greater debt shall have been previously authorized by a law of the State.

Notice of acceptance of charter to be given to governor.

9. *Be it further enacted*, That the president of said bank shall give notice to the governor of this State, of the acceptance of this charter, as amended, by the stockholders thereof, at such time as they may prescribe, before the first day of April next.

Subscription in behalf of the State.

10. *Be it further enacted*, That upon such notice being given to the governor of this State as is herein required, by the president of said bank, it shall and may be lawful for the president and directors of the said bank, and they are hereby required to receive from the public treasurer a subscription in behalf of the State, for the whole amount of the said three thousand shares of capital stock, at any time within three months from the passing of this act: payment for which to the said bank shall be made as follows, to wit: one-fourth of the whole amount at the time of subscribing, and one other fourth every ninety days thereafter, till full payment be made: *Provided*, that if the public treasurer pay the whole of the said subscription at the time of subscribing, or any greater part thereof than is hereby required, before the time limited for the same, the State shall have interest at the rate of six per cent. on all payments made in advance, computing the same from the time when payment is made to the time when required to be made: *And provided also*, that if the public treasurer fail to pay the said instalments, or any part of them, at the time appointed for the payment of the same, he shall pay interest, at the same rate, on all instalments or parts thereof not punctually paid, from the time the same should have been paid, until payment be made.

Capital stock, how it may be reduced.

11. *Be it further enacted*, That if, at any time hereafter, the president and directors of said bank shall find that the whole capital of the same cannot be safely and profitably employed, they shall have power, and they are hereby authorized, by the consent of the General Assembly, first to be had and obtained, to reduce the same to an amount not less than one million of dollars, by purchasing the stock of said bank, or receiving the same in payment of debts, bona fide due the bank, at a price not less than the par value thereof; and all shares of stock so purchased by the bank or taken in payment of debts, shall thereafter cease to be a part of the capital stock of said bank.

Bank may deal in public debt.

12. *Be it further enacted*, That the said bank shall have authority to deal in such public debt as now is, or may hereafter be created by this State.

BANK OF THE STATE OF NORTH CAROLINA.

AN ACT TO ESTABLISH A BANK IN THE STATE OF NORTH CAROLINA.

(Passed at the session of 1833—34.)

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That a bank shall be established in the State of North Carolina, the capital stock whereof shall not exceed one million five hundred thousand dollars, divided into shares of one hundred dollars each.

Capital of the bank.

2. *Be it further enacted,* That the bank so established shall be known and styled the "Bank of the State of North Carolina," and the subscribers to the said bank, their successors and assigns, 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 "Bank of the State of North Carolina," and shall so continue until the first day of January, one thousand eight hundred and sixty; 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, to an amount not exceeding in the whole four and a half millions of dollars, including the capital stock aforesaid; 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 whatever; 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 bylaws, 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 general meetings of the stockholders may be called by the directors in the manner hereinafter specified; 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, subject to the rules, regulations, restrictions and provisions hereafter prescribed and declared.

Incorporating subscribers.

3. *Be it further enacted,* That the State shall be entitled to subscribe for two-fifths of the capital, say six hundred thousand dollars, and individuals and corporations to the other three-fifths, say nine hundred thousand dollars; and books for receiving subscriptions in said bank shall be opened in Raleigh on the first day of February, one thousand eight hundred and thirty-four, by the governor, the treasurer, Gavin Hogg, William Boylan, Duncan Cameron, Charles L. Hinton and Alfred Jones; at Fayetteville, on

Amount for which the State and individuals may subscribe.

Commissioners to open books.

the same day, by Edward L. Winslow, Duncan M'Rae and Joseph Baker ; at Wilmington, on the same day, by Edward B. Dudley, P. R. Dickerson and R. H. Cowan ; at Newbern, on the same day, by Asa Jones, John R. Donnel, John Washington, Robert Primrose and Amos Wade ; at Washington, on the same day, by James Ellison, Eli Hoyt and Nathaniel J. Oliver ; at Edenton, on the same day, by Josiah Collins, senior, R. H. Booth, M. Haughton and John Popelston ; at Hertford, on the same day, by Henry Skinner, John Wood and Miles Elliott ; at Elizabeth City, on the same day, by Miles White, Hezekiah Lockwood, Isaiah Fearing, John M'Morine and Horatio N. Williams ; at Halifax, on the same day, by Andrew Joiner, Mark H. Pettaway and Thomas Burgess ; at Tarborough, on the same day, by Spencer D. Cotten, Eli Porter and Theophilus Parker ; at Warrenton, on the same day, by Peter R. Davis, Thomas White and Zachariah Herndon ; at Louisburg, on the same day, by William Perry, W. P. Williams and H. J. G. Ruffin ; at Oxford, under the superintendence of Rhodes N. Herndon, Thomas J. Hicks and James Cooper ; at Hillsborough, on the same day, by James Webb, John U. Kirkland and James Philips ; at Milton, on the same day by Samuel Watkins, John Wilson and John T. Garland ; at Salisbury, on the same day, by Thomas L. Cowan, William H. Horah and Samuel Reeves ; at Salem, on the same day, by Charles F. Bagge, F. H. Shuman and E. Shober ; at Charlotte, on the same day, by John Erwin, Joshua D. Boyd and Joseph McConnaughey ; at Ashville, on the same day, by Samuel Chunn, James M. Smith and Samuel W. Davidson ; at Lincolnton, on the same day, by Vardy M'Bee, John Hoke and Andrew Hoyl ; at Windsor, on the same day, by Joseph B. Roulhac, Lorenzo S. Webb and James L. Bryan ; at Beaufort, on the same day, by Benjamin Le Craft, Joseph F. Jones and Nathan Fuller ; at Morganton, on the same day, by Thomas Walton, Robert C. Pearson and Adolphus L. Erwin ; at Greensborough, on the same day, by Robert Modderwell, Jesse H. Lindsay and James T. Moorehead ; at Leaksville, on the same day, by William Barnett, William A. Carrigan and John Lawson ; at Jefferson, on the same day, by George Bower, Jr., Richard Gentry and Alexander B. M'Millian ; and at the same time, at such other places, under the superintendence of such commissioners, as may be designated by the commissioners appointed to receive subscriptions at Raleigh. A majority of said commissioners, at each of the abovenamed places, shall be competent to perform the duties of their appointment ; and if the whole number of shares other than those reserved for the State, shall not be subscribed within the term of sixty days, they may keep the books open for ten months, for the purpose of receiving subscriptions, and no longer.

4. *And be it further enacted*, That if it shall happen, when the books shall be opened as aforesaid, that a greater sum than nine hundred thousand dollars shall be subscribed by individuals or bodies corporate, it shall be lawful for the commissioners at Raleigh to

How subscriptions may be reduced in case of excess.

reduce such subscriptions, according to a scale by them to be established for that purpose, to the aforesaid sum of nine hundred thousand dollars : *Provided*, that no subscriptions of two shares or under shall be scaled until all larger subscriptions shall first be reduced to an equality with them. Proviso.

5. *Be it further enacted*, That payment for shares subscribed for in behalf of the State, whenever the payment of such subscriptions shall be ordered by the legislature, shall be made by the public treasurer out of such funds, being in gold or silver coins of the United States, or Spanish milled dollars, or their equivalent, to the commissioners in the city of Raleigh, and on the same times as are hereinafter prescribed for payments to be made by individuals or other subscribers : *Provided*, that if the State shall not have the means of paying the regular instalments on the whole number of six thousand shares, it shall be lawful for the public treasurer to subscribe and pay for such a number of shares as the funds in the treasury will warrant, or as the legislature may from time to time direct ; and if the whole number of six thousand shares shall not have been subscribed and paid for on or before the first day of January, one thousand eight hundred and thirtyseven, the State shall no longer have the privilege of taking them ; and the State shall at all times receive dividends of profits, when made by the bank, upon such shares as she may have paid for. How State subscriptions shall be paid.
Proviso.

6. *Be it further enacted*, That payment for shares subscribed for by individuals or corporations, shall be made in gold or silver coins of the United States, or Spanish milled dollars, or their equivalent, to the commissioners appointed to receive subscriptions at the city of Raleigh, to wit : twentyfive dollars on each share at the time appointed for the first general meeting of the stockholders ; twentyfive dollars ninety days thereafter ; twentyfive dollars one hundred and twenty days after the time appointed for paying the second instalment ; and the remaining twentyfive dollars one hundred and twenty days after the time for paying the third instalment : *Provided*, that after a sufficient number of shares have been subscribed and paid in for the bank to go into operation, as hereinafter provided, the remaining payments may be made by the subscribers at such branches or agencies as may be established by the said bank, most convenient to them, and take the receipts of the cashiers or agents of such branches or agencies, at which the payment may be made : *Provided always*, that it shall be lawful for any subscriber to pay the whole of his subscription, or any greater part than is hereby required, before the time limited for the same ; and each and every subscriber, so paying in advance, shall have a discount at the rate of six per cent. per annum on such advance, computing the same from the time when payment is made to the time when it is required to be made. How individual subscriptions shall be paid.
Proviso.

7. *Be it further enacted*, That the bank to be established in the city of Raleigh, shall be managed by ten directors, of whom the State may appoint four, if she take the whole amount of stock to which she is entitled to subscribe by this act, in the said bank, all of whom, except the public treasurer, must be stockholders ; Further proviso.
so.
Number of directors of the principal Bank and how appointed.

and individual and other stockholders may elect six directors, being stockholders, provided they shall have taken the whole amount of stock which they are hereby authorized to take : *Provided*, that if the bank shall go into operation with seven hundred and fifty thousand dollars, as is hereinafter provided, or any less amount than the whole capital, then the State, and individuals and other stockholders shall appoint the ten directors for the principal bank, in proportion to the number of shares held by them respectively : *And provided, also*, that if the State and individuals and other subscribers shall hold the same number of shares, then each shall appoint five directors : *And provided further*, that the State and individuals and other stockholders shall have the appointment of the ten directors apportioned among them in proportion to the amount of stock taken by each : *Provided*, that the public treasurer shall be ex officio a stockholder on the part of the State, whether he be a stockholder or not.

Public Treasurer to be ex officio a director.

Of the election of a president and his salary.

How branches and agencies shall be established, and directors appointed.

8. *Be it further enacted*, That the president of the bank, being a director, shall be chosen by a majority of the directors, with a salary to be fixed by the stockholders in general meeting.

9. *Be it further enacted*, That branches or agencies of said bank shall be established at such times and at such places as the stockholders in general meeting may designate, with capitals, at such branches or agencies, as the directors of the principal bank may assign, which shall be removable at their pleasure, after one year's notice of such intended removal ; and that the president and directors of the principal bank, for the time being, shall have power to appoint five directors for each branch bank, and such officers, clerks and servants, under themselves, as well as at the several branches, as shall be necessary for executing the business of the said corporation, and to allow them such compensation for their services, respectively, as shall be reasonable ; and shall be capable of exercising such other powers and authorities, for the well government and ordering the affairs of the said corporation, as shall be described, fixed and determined by the bylaws, rules, regulations and ordinances of the same.

How branches and agencies shall be managed.

10. *Be it further enacted*, That the branch banks shall be managed by five directors, being stockholders, appointed annually by the directors of the principal bank, and governed by general rules that may be prescribed by the said directors of the principal bank ; and the agency shall be managed by an agent, under the exclusive control and direction of the directors of the principal bank.

When bank may go into operation.

11. *Be it further enacted*, That the bank may go into operation whenever seven hundred and fifty thousand dollars shall have been paid in ; and that no dividend on the profits of the bank shall be declared by the president and directors until the whole amount of the capital stock subscribed shall be realized to the bank, in gold or silver, or its equivalent.

Semi-annual dividends.

12. *Be it further enacted*, That dividends of the profits of the bank shall be made semi-annually.

Annual statements to be made to the

13. *Be it further enacted*, That it shall be the duty of the president of the principal bank, in the first week in December of each

and every year, to transmit to the public treasurer a full and correct statement of the condition of the bank, shewing the amount of capital; notes in circulation, and from what places issued; debts due to other banks, and what banks; and also all other particulars necessary to shew the true condition of the debit side of the account; also specie on hand; debts due from other banks, and what banks; the amount of notes or bonds discounted, and of bills of exchange, shewing in one item the amount due from directors, and in another the amount due from stockholders, but in no case using names of persons; real estate; and all other particulars necessary to shew the true condition of the credit side of the said account; which statements the public treasurer shall lay before the General Assembly in his official reports, and the dividends which shall accrue from time to time upon the stock of the bank; and each share owned by individuals, shall be subject to an annual tax of twentyfive cents, and no more, which tax shall be reserved out of the profits as they accrue, by the cashier of the principal bank, and placed to the credit of the State, on or before the first day of October in every year.

public treasurer, to be communicated to the legislature.

Tax on stock.

14. *Be it further enacted*, That if any president, clerk or other officer of the bank, or any of its branches or agencies, shall knowingly and willingly make, cause to be made, or connive at making any false return, statement or exhibit of the condition of the bank, its branches or agencies, either to the public treasurer, to the General Assembly, to the board of directors, to the principal bank, or to any of its branches or agencies, or to the stockholders, or to any person or persons authorized by the legislature, or by the stockholders, to receive the same, such person or persons so offending, their aiders and abettors in such false return or deception, shall be deemed guilty of a misdemeanor, and on conviction in any of the superior courts of law in this State, shall be punished by a fine at the discretion of the court, and by imprisonment not longer than one year.

Penalty for making false returns.

15. *Be it further enacted*, That it shall be at all times lawful for any committee appointed by the legislature for that purpose, to inspect the books, and examine into the proceedings of the said corporation, and make report thereon: *Provided*, that said committee shall not be authorized to examine into the private accounts of individuals, except of the directors of the principal bank and its branches.

Committee may inspect books, &c.

Proviso.

16. *Be it further enacted*, That all stockholders, being citizens of the United States, shall be entitled to vote, either in person or by proxy, at all general meetings of the stockholders.

Stockholders entitled to vote at general meetings.

17. *Be it further enacted*, That the vote to which each stockholder shall be entitled, except the State, shall be according to the number of shares he may hold, in the proportions following, that is to say: for one share, and not more than two, one vote; for every two shares above two, and not exceeding ten, one vote; for every four shares above ten, and not exceeding thirty, one vote; for every six shares over thirty, and not exceeding sixty one vote; for every eight shares over sixty, and not exceeding one hundred, one vote;

Stockholders how to vote.

for every ten shares over one hundred, and not exceeding two hundred, one vote; and for every twenty shares over two hundred, one vote. The treasurer, or whoever the governor of the State may appoint to represent the State at the general meetings of the stockholders, shall have the same number of votes to which the greatest number of stockholders holding an equal number of shares with those owned by the State would be entitled; and after the first election, no share or shares shall confer a right of suffrage which shall not have been holden three calendar months previous to the day of election.

Eligibility of directors.

18. None but a stockholder being a citizen of the State, shall be eligible as a director.

Emoluments how allowed.

19. None shall be entitled to any emolument, unless the same shall have been allowed by the stockholders at a general meeting, or by the board of directors of the principal bank.

Board for the transaction of business.

20. A majority of the directors at the principal bank, or a majority of the directors at the branches, shall constitute a board for the transaction of business, of whom their respective presidents shall always be one, except in cases of sickness or necessary absence; in which case his place may be supplied by any other director, whom he, by writing under his hand, may nominate for the purpose.

How to call a general meeting of stockholders.

21. A number of stockholders, not less than fifty, who together shall be proprietors of three hundred shares or upwards, shall have power at any time to call a general meeting of the stockholders for purposes relative to the institution, giving at least eight weeks' previous notice in the public gazettes of the place where the principal bank is kept, specifying in such notice the object or objects of such meeting.

Cashier or agent to give bond.

22. *Be it further enacted,* That every cashier or agent, before he enters on the duties of his office shall be required to give bond and security, in the sum of not less than twentyfive thousand dollars, conditioned for his good behavior and faithful discharge of the duties of his office.

Penalty for embezzlement or fraud.

23. *Be it further enacted,* That if the cashier or any other officer, agent or servant of said corporation, shall embezzle, and, without authority from the president and directors of said bank, appropriate any of the funds of said corporation to his own use, with intent to cheat or defraud the president, directors and company of said bank, or shall make false entries upon the books of said bank with intent to defraud said corporation or any other person whatsoever, said officer, agent or servant shall be held and deemed guilty of felony, and, upon conviction thereof, by due course of law, shall be punished by fine and imprisonment not exceeding five years, putting in the pillory, public whipping not exceeding thirty lashes on his bare back, all or any of them, at the discretion of the court.

Restriction in holding property.

24. *Be it further enacted,* That the lands, tenements and hereditaments which it may be lawful for said corporation to acquire, shall be only such as shall be requisite for its immediate accommodation for the transaction of its business, and such as have been

bona fide mortgaged to it by way of security, or conveyed to it in satisfaction of debts previously contracted in the course of ordinary banking business, or purchased at sales upon judgments or decrees rendered in favor of said bank.

25. *Be it further enacted*, That the bills obligatory and of credit, under the seal of said corporation, which shall be made to any person or persons, shall be assignable by endorsement thereupon, under the hand or hands of such person or persons, and of his, her or their assignee or assignees, and so as absolutely to transfer and vest the property thereof in each and every assignee or assignees, to bring and maintain an action thereupon in his, her or their own name or names. And bills or notes which may be issued by order of the said corporation, signed by the president and countersigned by the cashier of the principal bank, promising the payment of money to any person or persons, his, her or their order, or to the bearer, though not under the seal of the said corporation, shall be binding and obligatory on the same, in the like manner, and with the like force and effect as upon any private person or persons, if issued by him, her or them in his, her or their natural or private capacity or capacities, and shall be assignable and negotiable in like manner as if they were so issued by such private person or persons, that is to say : those which shall be payable to any person or persons, his, her or their order, shall be assignable by endorsement in like manner and with like effect as foreign bills of exchange now are ; and those which are payable to bearer shall be negotiable and payable by delivery only.

How bills, &c. shall be assignable.

26. *Be it further enacted*, That the said corporation shall not deal except in gold and silver coin or bullion ; bills of exchange ; mint certificates ; promissory notes, expressing on the face of them to be negotiable and payable at the said bank or some of its branches ; in the public debt of the United States ; in stock of the present Bank of the United States, or such other bank as may be hereafter established by a law of the United States : *Provided*, that investment in such stock shall not exceed, at any one time, one half of the capital stock of the bank hereby created.

In what the corporation shall deal.

27. *Be it further enacted*, That the said corporation shall not take more than six per cent. per annum upon its loans or discounts, which may be received in advance at the time of discount.

Interest on loans.

28. *Be it further enacted*, That whenever the legislature may be of opinion that the charter of the corporation hereby granted shall have been violated, it may be lawful, by joint resolution, to direct the attorney general, with such assistant counsel as the governor or legislature may think proper to engage, to issue a writ of scire facias, returnable before the judges of the supreme court of the State, calling upon said corporation to show cause why the charter hereby granted shall not be forfeited, subject to the same proceedings as are now prescribed by law in cases of other corporations.

Process in case of violation of charter.

29. *Be it further enacted*, That if any person or persons holding any note or notes of said bank, shall present the same for payment at the principal bank, or either of its branches or agencies, where such note or notes are payable, and the payment shall be

Penalty for refusing to redeem notes.

refused, the said note or notes shall draw interest, at the rate of twelve per cent. per annum, from the time of said demand, and the said bank shall pay the same; any law to the contrary notwithstanding.

Penalty for
forgery or
counterfeiting.

30. *Be it further enacted*, That if any person shall falsely make, forge or counterfeit, cause or procure to be falsely made, forged or counterfeited, or willingly aid or assist in falsely making, forging or counterfeiting any bill or note, in imitation, or purporting to be a bill or note issued by order of the president and directors of the Bank of the State of North Carolina, or any order or check on said bank or corporation, or any cashier thereof, or shall falsely alter, or cause or procure to be falsely altered, or willingly aid or assist in falsely altering, any bill or note issued by order of the president and directors of the Bank of the State of North Carolina, or any order or check on the said bank or corporation, or any cashier thereof; or shall pass, or receive with intent to pass, utter or publish, or attempt to pass, utter or publish, as true, any false, forged or counterfeited bill or note, issued by order of the president and directors of the Bank of the State of North Carolina, or any false, forged or counterfeited check upon the said bank or corporation, or any cashier thereof, knowing the same to be falsely forged or counterfeited, or shall pass, or receive with intent to pass, utter or publish, or attempt to pass, utter or publish, as true, any falsely altered bill or note, issued by order of the president and directors of the Bank of the State of North Carolina, or any falsely altered order or check on the said bank or corporation, or any cashier thereof, knowing the same to be falsely altered, with intention to defraud the said corporation or any other body politic or person, every such person shall be deemed and adjudged guilty of felony, and being thereof convicted by due course of law, shall be punished by fine and imprisonment not exceeding three years, putting in the pillory, public whipping not exceeding thirty lashes on his or her bare back; all or any of them at the discretion of the court, due regard being had to the circumstances of the offence.

No note under
three dollars to
be issued.

31. *Be it further enacted*, That no note shall be issued by the Bank of the State of North Carolina for a less sum than three dollars.

Limiting the
circulation.

32. *And be it further enacted*, That this bank shall at no time have in circulation more than twice the amount of its capital.

Cashier shall
keep a book to
contain the
proceedings of
the board of
directors,
which shall be
evidence in
courts.

33. *Be it further enacted*, That the cashier shall keep a book to contain the proceedings of the board of directors, the names of those present, the day and date of each meeting, and shall record the yeas and nays on any question, when asked for by any director. This book shall be evidence in courts of justice: and on entering on the discharge of his duties, the cashier shall take the following oath before some justice of the peace, by whom it shall be returned to the office of the clerk of the county court: "I, A. B. do solemnly swear to keep a just and true record, without alterations or erasures, of the transactions of the board of directors of the Bank of the State of North Carolina, in a book to be kept by me for that purpose."

AN ACT SUPPLEMENTAL TO THE ACT TO ESTABLISH A BANK IN THE STATE OF NORTH CAROLINA.

(Passed at the session of 1833—34.)

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That until otherwise provided by law, the governor, secretary of state, and comptroller of public accounts, shall have authority, and it shall be their duty to appoint such directors as the State may be authorized to appoint, to represent the public stock in the bank of the State of North Carolina.

By whom directors for the State shall be appointed.

2. *Be it further enacted,* That in addition to the stock that may be subscribed for in said institution by the president and directors of the literary fund, it shall be the duty of the public treasurer to subscribe, from time to time, for such further amount of stock as the condition of the public treasury may, in his opinion, justify.

Duty of Public Treasurer to subscribe for stock.

3. *Be it further enacted,* That the public treasurer shall have authority, if in his opinion such a measure shall be expedient, to borrow, in behalf of the State, from the banks of Newbern and Cape Fear such sums of money, or any part thereof, as the State may be entitled to borrow under the provisions of the amended charter of those institutions granted in the year eighteen hundred and fourteen.

Public Treasurer authorized to borrow.

4. *And be it further enacted,* That it shall be lawful for the bank of the State of North Carolina to go into operation whenever one half of the amount of individual stock, authorized by the act to which this is a supplement, shall be subscribed for and paid in gold and silver or the equivalent thereof.

When the bank may go into operation.

AN ACT TO AMEND "AN ACT TO ESTABLISH A BANK IN THE STATE OF NORTH CAROLINA," PASSED AT THE LAST SESSION OF THE GENERAL ASSEMBLY.

(Passed at the session of 1834-35.)

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That it shall and may be lawful for the corporation created and established by the above recited act, to deal in promissory notes, expressed on the face of them to be negotiable and payable at any agency of the bank of the State of North Carolina, which now is, or hereafter may be established in conformity with the provisions of said act, in like manner, as in promissory notes expressed on their face to be negotiable at the said bank, or some of its branches.

Bank may deal in promissory notes, made payable at any of its agencies.

2. *Be it further enacted,* That the said corporation shall at all times receive in deposit at their principal bank, or any of the branches or agencies thereof, as much of the public money as the treasurer of the State shall offer to deposit in said bank to his

Bank shall receive public money in deposit.

Proviso.

credit : *Provided*, That it shall not be obligatory upon the treasurer or upon the State, to make deposits in said bank.

Repealing clause.

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

When to be in force.

4. *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 secretary of state of this State.

MERCHANTS' BANK OF NEWBERN.

AN ACT TO ESTABLISH THE MERCHANTS' BANK OF THE TOWN OF NEWBERN.

(Passed in the year 1834.)

Capital stock.

Books to be opened for subscription.

BE it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That a bank shall be established in the town of Newbern, the capital stock of which shall not exceed three hundred thousand dollars, divided into shares of one hundred dollars each ; and that for the purpose of receiving subscriptions for the said stock, books shall be opened on the second Monday of February, in the year of our Lord one thousand eight hundred and thirtyfive, and remain open for the space of sixty days, at the following places, and under the superintendence of the following persons, or a majority of them, viz : At Newbern, under the superintendence of John Snead, John Washington, Samuel Simpson, William Hollister, John Burgwyn, John W. Guion, Isaac Taylor, Bennet Flanner, Amos Wade, Michael H. Lente, Samuel Oliver, George S. Attmore, James C. Stephenson, Charles Slover, Hardy B. Lane, and William C. Hunter. At Washington, in Beaufort county, under the superintendence of John Myers, Eli Hoyt, Abner P. Neale, Nathaniel J. Oliver, and Thomas H. Blount. At Bath, under the superintendence of Joseph Bonner, John Y. Bonner, and Jesse B. Lucas. At Caswell, under the superintendence of John C. Washington, Reuben Knox, Nathan G. Blount and Watson Wilcox. At Waynesborough, under the superintendence of Richard Washington, Arnold Borden and John Wright. At Trenton, under the superintendence of William Huggins, James Harrison, Hardy Bryan and Charles Garock. At Beaufort, under the superintendence of James W. Byran, Jackonias Piggot, John F. Jones and Benjamin Lecrofte. At Swansborough under the superintendence of William P. Ferrand, Daniel L. Russel and Basil Hawkins. At Snowhill, under the superintendence of Benjamin S. Edwards, William Williams, clerk, and Charles Harper.

2. *Be it further enacted,* That one-fourth of each share shall be paid in gold or silver, or their equivalent, to the commissioners above named, at the time of subscribing; that another fourth shall be paid in gold or silver, or their equivalent, to the directors, chosen in the manner hereafter described, within sixty days after the bank shall have commenced business, and the remainder shall be paid as aforesaid, within nine months after the commencement of its operations: and if any subscriber shall fail to pay any instalment at the time stipulated, he shall pay interest thereon at the rate of six per centum per annum, and his stock shall be forfeited, and may be sold by the bank, and the proceeds applied to the payment of the said deficient instalment, with the interest thereon, and the balance, if any, paid over to said subscriber: *Provided,* That no dividend shall be declared until the whole amount of stock subscribed shall be paid in gold or silver or their equivalent.

How subscrip-
tions shall be
paid.

3. *Be it further enacted,* That when one thousand shares are subscribed, and the sum of twenty-five thousand dollars is actually paid to the commissioners, the subscribers to the said bank, their successors and assigns, shall be, and are hereby created and made a corporation and body politic in law and in fact, by the name and style of the "President and Directors of the Merchants' Bank of Newbern," and shall so continue until the first day of January, one thousand eight hundred and fifty-five; 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 and successors, lands, tenements, rents, hereditaments, goods, chattels and effects, and the same to grant, demise, alien and dispose of, to sue and be sued, implead and be impleaded, answer and be answered, defend and be defended, in courts of record, or any other place whatsoever; and also to make, have and use a common seal, and the same to break, alter or renew at their pleasure; and also to ordain, establish and put in execution such bylaws, ordinances and regulations as shall seem necessary and convenient for the government of said corporation; and for the making whereof, general meetings of the stockholders may be called in the manner hereafter specified, and generally to do and execute all acts, matters and things which a corporation and body politic in law, may or can lawfully execute or do, subject to the rules, regulations, restrictions and provisions, hereafter prescribed and declared.

Incorporating
subscribers.

4. *Be it further enacted,* That as soon as one thousand shares shall be taken in the stock of said bank, and the required instalments paid to the commissioners who keep the books, notice thereof shall be given in the gazettes published at Newbern, and a meeting of the subscribers to be held ten days at least after the date of the notice, shall be called. If at this meeting those or their agents who have a majority of votes according to the rules hereafter described be present, (if not, another meeting shall be called,) they shall proceed to the election of seven directors, who shall take charge of the books and money in the hands of the commissioners, and immediately pursue the usual means to put the

Subscribers to
meet and ap-
point directors.

bank in operation. The said directors shall remain in office until the first Monday in December, one thousand eight hundred and thirtyfive, (1835,) or until their successors shall be appointed : and on the first Monday in December in each year, or at any time thereafter, meetings of the stockholders shall be held in the town of Newbern for the purpose of electing directors, inquiring into the affairs of the institution, and making such regulations as may be deemed fit and necessary.

Annual meetings of stockholders.

When the bank may go into operation.

5. *Be it further enacted,* That the bank may go into operation whenever one hundred thousand dollars shall have been paid in, and that no dividends on the profits of the bank shall be declared by the president and directors until the whole amount of the capital stock subscribed shall be realized to the bank in gold or silver, or its equivalent.

Fundamental articles.
A majority of stockholders required at all meetings.
How to vote.

6. *Be it further enacted,* That the following rules, regulations and provisions, shall form and be the fundamental articles of the constitution of the corporation : A meeting of the stockholders cannot be held unless those who have a majority of the whole number of votes be present ; and every act shall require the sanction of a majority of the votes which may be present ; every stockholder holding one share and not more than two, shall be entitled to one vote ; for every two shares above two, and not exceeding ten, one vote ; for every three shares above ten and not exceeding one hundred, one vote ; for every four shares above one hundred, one vote. After the first meeting, no share or shares shall confer a right of voting, which shall not have been holden three calendar months previous to the day of voting. Stockholders may vote at elections and general meetings by proxy, the proxy himself being a stockholder. None but a stockholder, who is a citizen of the State, shall be eligible as a director ; and the directors, when appointed, shall choose one of their number, (which shall always be seven,) to be president of said bank, and shall manage the institution as shall seem best to them, unless otherwise directed by the stockholders ; but compensation to the president or directors shall be granted at the pleasure of the stockholders. Not less than five directors, of whom the president shall always be one, shall constitute a board for the transaction of business, except in case of absence or sickness of the president, when he may by writing nominate any other director to supply his place. A number of stockholders not less than ten, who together shall be the owners of one hundred shares or upwards, shall have power at any time to call a general meeting of the stockholders for purposes relative to the institution, giving at least twenty days notice in a public gazette, and specifying the object or objects of such meeting. The directors shall annually elect a cashier and such other officers as may be necessary to perform the business of the bank. These officers shall be required to give bonds, with two or more securities, in sums not less than ten thousand dollars, with a condition for good behavior and faithful discharge of duty. The cashier shall keep a book to contain the proceedings of the board of directors, the names of those present, the date and day of each meeting, and

Qualifications of directors, election of president, &c.

Cashier and other officers to be elected and shall give bonds.

Duty of the cashier, &c.

shall record the yeas and nays on any question when asked for by a director. This book shall be evidence in courts of justice against said bank ; and on entering on the discharge of his duties, the cashier shall take the following oath or affirmation before some justice of the peace, by whom it shall be deposited in the office of the clerk of the county court of Craven county, viz : " I, A. B. do solemnly swear, (or affirm, as the case may be,) to keep a just and true record, without alterations in, or erasures of, the transactions of the board of directors of the Merchants' Bank of Newbern, in a book to be kept by me for that purpose." In all cases in addition to the usual personal security, the stock of directors shall be considered as a pledge for the repayment of the money which they may borrow, whether as principal or surety. The said corporation shall purchase and hold only such lands, tenements, rents and hereditaments, as shall be requisite for the convenient transaction of its business, or shall have been *bona fide* mortgaged to it by way of security, or conveyed to it in satisfaction of debts previously contracted in the course of its dealings, or purchased at sales upon judgments which shall have been obtained for such debts. The said corporation shall neither directly or indirectly trade in any thing except bills of exchange, promissory notes and bonds, expressing on the face of them to be negotiable and payable at said bank, gold or silver bullion, or in the sale of goods really and truly pledged for money lent, and not redeemed in due time, or of goods which shall be the produce of its lands, mint certificates, the public debts of the United States, stock of the present bank of the United States, or such other bank as may be hereafter established by a law of the United States ; provided the investment in such stock shall not exceed one half of the capital stock of this bank. Neither shall the said corporation take more than at the rate of six per centum per annum for or upon its loans and discounts ; which interest shall be taken in advance at the time of discount. The total amount of the debts which the said corporation shall at any time owe, shall not exceed twice the amount of the stock actually paid in over and above the sum then actually deposited in the bank for safe keeping ; if this or any other enactment herein contained be violated, the directors knowingly and willingly assenting to such violation, shall be deemed to have committed a misdemeanor, and upon conviction in the superior court, shall be fined or imprisoned, or both, at the discretion of the court. If a vacancy in the directory shall occur, by death, resignation or otherwise, the remaining directors shall fill such vacancy, until the succeeding meeting of the stockholders. The stock of said corporation shall be assignable and transferable according to the rules which shall be instituted in that behalf, by the laws and ordinances of the same. The officer at the head of the treasury department of the State shall be furnished once in six months with a statement of the amount of capital stock of said corporation, and of the debts due to the same, of the moneys deposited therein, of the notes in circulation, and of the cash in hand ; and shall have a right to inspect such general accounts in the books of the bank as

Restriction in holding property.

In what the bank shall trade.

Rate of per cent. on loans.

Limit of bank debt.

Penalty.

How to fill vacancies.

Statement to be furnished treasurer.

How bills or notes shall be assignable

shall relate to the said statement: *Provided*, That this shall not be construed to a right of inspecting the accounts of any private individual with the bank, except of the directors. The bills obligatory and of credit, under the seal of the said corporation, which shall be made to any person or persons, shall be assignable by endorsement thereon under the hand or hands of such person or persons, and of his, her or their assignee or assignees; and so as absolutely to transfer and vest the property therein in each and every assignee or assignees successively, and to enable such assignee or assignees to bring and maintain an action thereupon in his, her or their own name or names; and bills or notes, which may be issued by order of said corporation, signed by the president and countersigned by the cashier, promising the payment of money to any person or persons, his, her or their order, or to bearer, though not under the seal of said corporation, shall be binding and obligatory on the same, in the like manner and with the like force and effect, as upon any private person or persons, that is to say, those which shall be payable to any person or persons, his, her or their order, shall be assignable by endorsement in like manner and with like effect, as foreign bills of exchange now are; and those which are payable to bearer, shall be negotiable and assignable by delivery only.

No note to be issued under five dollars, &c.

7. *Be it further enacted*, That no note shall be issued by the said bank under the denomination of five dollars, and if any person or persons holding any note or notes of said banks, shall present the same for payment and the payment shall be refused, the said note or notes shall draw interest at the rate of twelve per cent. per annum, from the time of said demand, and the said bank shall pay the same; any law to the contrary notwithstanding; and the holder of the notes of the said bank, if not paid on demand, may bring an action of assumpsit against one or all of the directors, who may have consented to issue more than twice the capital stock paid in: *Provided*, that the bank be not able to pay the amount.

Stockholders liable to creditors.

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

Books may be kept open.

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

Fraud of directors deemed felony.

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

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

Penalty for counterfeiting or forgery.

12. *Be it further enacted*, That the president or cashier of the said bank shall annually pay into the treasury of the State, twentyfive cents on each share of said capital stock, which may have been subscribed for and paid in; and the first payment of said tax, shall be made twelve months after the said bank shall have commenced operations.

Tax on stock.

13. *Be it further enacted*, That the directors of said bank may declare, semi-annually, dividends of the profits thereof; and if at any time more than the real profits be divided, the directors assenting thereto, shall be responsible in their private capacities to creditors who have claims against the said institution.

Semi-annual dividends.

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

Annual statements to be made to the Legislature.

15. *Be it further enacted*, That if any president, director, cashier, clerk, or other officer of the aforesaid bank, shall knowingly, willingly, and with intent to deceive, make or cause to be made, or connive at making any false return, statement or exhibit

Penalty for making false returns.

of the condition of the bank, either to the treasury of the State, to the legislature, to the board of directors, or to the stockholders, or to any other person or persons that may be authorized by the legislature, or by the stockholders, to receive the same, such president, director, cashier, clerk or other officer, and all persons aiding or abetting in such deception or false return, shall be liable to be indicted as for a misdemeanor in the superior courts, and upon conviction shall be fined at the discretion of the court and imprisoned not exceeding one year.

Proceedings in
case of viola-
tion of the
charter.

16. *Be it further enacted*, That whenever the legislature may be of opinion that the charter of the corporation hereby granted shall have been violated, it may be lawful by joint resolution, to direct the attorney general with such assistant counsel as the governor or legislature may think proper to engage, to issue a writ of *scire facias* returnable before the judges of the supreme court of the State, calling upon said corporation to show cause why the charter hereby granted shall not be forfeited; subject to the same proceedings as are now prescribed by law, as in cases of other corporations.

Reduction of
subscription.

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

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.

(Passed at the session of 1835.)

Be 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.

2. *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.

3. *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.

SOUTH WESTERN RAIL ROAD BANK.

AN ACT TO CONFER BANKING PRIVILEGES ON THE STOCKHOLDERS OF THE LOUISVILLE, CINCINNATI AND CHARLESTON RAIL ROAD COMPANY, ON CERTAIN TERMS AND CONDITIONS.

(Passed at the session of 1836.)

BE 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 company incorporated in the state of South Carolina, North Carolina and Tennessee, by the name of "The Cincinnati and Charleston Rail Road Company;" and in the state of Kentucky, by the name of "The Louisville, Cincinnati and Charleston Rail Road Company," shall be called and known as a body corporate in all the states aforesaid, by the name of "The Louisville, Cincinnati and Charleston Rail Road Company;" and that the corporators in the said rail road company shall form a separate body corporate, in deed and in law, for banking purposes, in such of the states of South Carolina, North Carolina, Tennessee and Kentucky, as shall assent thereto, and be called and known by the name of the "South Western Rail Road Bank:" *Provided*, that the assent of not less than three of the said states shall be given hereto, before the bank shall have corporate existence.

Corporation to form a separate body for banking purposes.

2. *Be it further enacted*, That the said banking company shall be formed in the following manner, and be vested with the following powers, and be subject to the following restrictions: that is to say, 1st. Each of the present stockholders, and every person who may hereafter become a stockholder in the said rail road company, until the capital thereof shall be increased by regular subscriptions to twelve millions of dollars, shall be entitled, for every share in the said rail road company of one hundred dollars, to take one share in the bank of fifty dollars, so that the capital of the said bank may, in the first instance, amount to the sum of six millions of dollars. 2d. The directors of the said company shall cause books to be opened to the community at large, in all the states of South Carolina, North Carolina, Tennessee and Kentucky, at all places where books were opened for the first subscriptions of stock in said rail road company, and such other places as the said directors may designate, by such commissioners as the said directors may appoint, from ten o'clock in the morning to two o'clock in the afternoon of each day, for a period not less than thirty days, except Sundays, for the purpose of increasing the stock of the said rail road company to twelve millions of dollars; and if, on closing the books, on the last day of December, eighteen hundred and thirtyseven, the rail road capital shall have been increased by regular subscriptions to eight millions of dollars, or more, the bank shall be regarded as formed; and thereupon, the stockholders therein shall be a body corporate in all the states assenting thereto, by the name of "The South Western Rail Road Bank;" *Pro-*

Banking company how formed, &c.

vided, at least three of the states shall assent thereto. 2d. If, on closing the books, the subscriptions shall have increased the capital of the rail road company beyond twelve millions of dollars, the same shall be reduced to that sum, by reducing the subscriptions made after the first day of December, eighteen hundred and thirty-six, in the manner prescribed by the seventh section of the rail-road charter.

Payment of first instalment.

3. As soon as the said bank has become a body corporate as aforesaid, the directors of the said rail road company, by publication, in two or more newspapers in each of the said states, shall call on all the stockholders in the rail road company, to pay the first instalment of twelve dollars and fifty cents on each share towards forming the capital of the bank, which sum shall be paid into some specie paying bank in the state where the payment is made, to the credit of the "South Western Rail Road Bank;" and each stockholder in the rail road company, who shall, within one month after the day fixed for the said payment, pay, on the whole, or any part of the stock he owns, in specie, or the notes of specie paying banks in the said states, the instalment so called for, shall be regarded and taken as a stockholder in the said bank, for the number of shares on which such payment shall be made. And as soon as the said bank has become a body corporate as aforesaid, the directors of the rail road company shall appoint a time and place for the stockholders in the bank to meet by themselves, or proxies, and give notice thereof, by publications in two or more newspapers in each of the said states, at least one calendar month before such meeting. In all meetings of the stockholders of the bank, votes may be given in person or by proxy, on the same terms, and according to the same scale as is prescribed for voting in person, or by proxy, in meetings of the rail road company; except that no person shall act as a proxy in the bank, unless he be a stockholder therein.

Meeting of stockholders, and their votes.

Election of directors.

4. At the first meeting of the stockholders, and annually thereafter, on such day as shall be fixed by the bank corporation, there shall be an election of thirteen directors of the bank; and those who are elected by a plurality of votes shall be capable of serving as such only for one year; but shall be re-eligible. In case of death, resignation, or removal from office by the stockholders, of a director, his place may be filled by the other directors for the remainder of the year.

Bank not dissolved by a failure to elect.

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

The residence of directors, appointment of president, &c.

6. The directors of the bank shall be resident citizens of some of the said states, and stockholders of the bank; and, at the first meeting after their election, they shall appoint one of their number to be president of the said bank; they shall appoint all the officers of the bank, and the president, directors and cashier of its branches, all of whom they may remove at pleasure, and may also

at pleasure remove all the officers of the branches, which shall have been appointed by the president and directors of such branches : no director, or partner of a director of another bank, shall be a director in this bank, or in any of its branches ; nor shall any person act as a director, who may be under protest in the said bank, as drawer or endorser of any note or bill of exchange, held by the said bank, either for discount or collection, unless he shall prove to the satisfaction of a majority of the directors, that he has just and sufficient cause for refusing payment of the demand on which such protest may be founded.

7. The president and directors of the bank may call for a second instalment of twelve dollars and fifty cents, upon the capital of the bank, as soon after their elections as they may deem proper, upon giving one month's notice thereof, by publication, in at least two newspapers in each of the states assenting thereto : the subsequent instalments they may call for in such sums as they may deem necessary ; provided, that similar notice be given, and the payment be at least sixty days apart ; and, provided also, that no call for any instalment subsequent to the two first shall be made, until an amount equal to such call shall have been previously called in by the rail road company, and shall have been actually expended in constructing the rail road, or shall be necessary to meet contracts actually made on account of the same. When the instalment paid in for the capital of the said bank shall amount to six millions of dollars, the capital shall not be further increased, until six millions of dollars shall have been actually called in and expended on the rail road ; after which, the capital of the bank shall be increased only by calling for instalments equal in amount to those which may be called for by the rail road company, until the said capital shall reach the limit of twelve millions : *Provided*, the capital of the bank shall not exceed six millions, until the rail road shall have been extended to the state of Tennessee ; and that it shall not exceed nine millions, until the road shall be extended to the southern boundary of Kentucky ; and that it shall not be increased to twelve millions, until it shall be extended to Lexington in Kentucky : *Provided also*, that any share in the bank, on which any instalment shall not be paid, when called for, shall, with all the payments made thereon, be forfeited to the bank ; but such defaults shall not induce a forfeiture of the corresponding rail road shares.

8. The board of directors of the rail road and of the bank, shall be distinct and separate bodies ; and the capital of the rail road and of the bank shall also be kept distinct and separate ; the bank shall never be liable for the debts of the rail road company ; but the rail road company shall be liable for the debts of the bank, in case of failure : Except, that shares in the rail road, which have no corresponding shares in the bank, shall not be liable to the debts of the bank.

9. The president and directors of the bank shall make up, annually, a full statement of the affairs thereof, as they may stand on the first day of October ; and also of the affairs of each of the

Of the call for instalments and gradual increase of capital.

Capital and officers of bank and railroad to be separate, &c.

Annual statement to be made.

branches on that day, as rendered to them by the president and directors of such branch; and shall send one copy thereof, certified by the president and cashier, to each of the governors of the said states, to be laid before their respective legislatures.

The location of principal bank, &c.

10. The mother or principal bank, shall be located at Charleston; and the said bank may establish branches, or have agencies thereof, in any state, with the consent of the legislature thereof. And it is hereby declared, that the said bank shall not have corporate existence, unless two of the states of North Carolina, Tennessee and Kentucky shall consent to the establishment of branches therein.

Denomination and redemption of notes.

11. The bank shall never issue any note, or draw a check which is payable to order, or bearer, of a less denomination than five dollars, until the road is completed, nor less than ten dollars after the completion of said road. Nor shall it ever put in circulation notes payable to order or bearer, to an amount exceeding double its capital; and in case it shall not redeem its notes in current coin of the United States, when demanded, at the bank or branch where such notes are payable, such notes shall thenceforth bear interest at the rate of twelve per cent. per annum.

Bank not to lend on pledge of stock &c.

12. Neither the bank nor its branches shall lend money on the pledge of its own, or the stock of the rail road, until three-fourths of the capital of the rail road company shall have been paid in; and then only to one-half of the said stock; and the bank shall never permit the railroad company to overdraw.

Officers, &c. of branches.

13. Each branch of the said bank shall be an office of discount and deposit. It shall have a board, to consist of a president, and not less than six directors, with a cashier, and such other officers as the business of the branch may require; the board shall conform to all orders it may receive from the president and directors of the bank; and shall possess such powers as the said president and directors may confer on them, consistently with this charter.

Corporate powers of the bank.

14. And the said bank corporation, by its said name and style, shall be, and is hereby made capable in law, to have, purchase, receive, possess, enjoy and retain, to it and its successors, lands, rents, tenements, hereditaments, goods, chattels, promissory notes, bills of exchange, and all other choses in action, moneys, and effects of what kind, nature or quality soever, to an amount not exceeding, in the whole, three times the amount of the capital stock of the said corporation: and the same to sell, alien or dispose of; and also to sue and be sued, plead and be impleaded, answer and be answered, defend and be defended, in the courts of any of the said states, or of any other place whatsoever; and also to make, have and use a common seal, and the same to break, alter and renew at pleasure; and also to discount promissory notes, at a rate of interest not exceeding one per cent. for sixty days; and also to ordain, establish and put in execution such bylaws, ordinances, and regulations as shall seem necessary and convenient, for the government of the said corporation, not being contrary to the laws of the said states, or of the United States, or to the consti-

tution thereof ; and generally to do and execute, all and singular, such acts, matters and things, as may be deemed necessary and proper for the good government and management of said corporation ; subject, nevertheless, to such regulations, restrictions, limitations and provisions as are herein prescribed and declared.

15. That the total amount of debts which the said corporation shall at any time owe, shall not exceed three times the amount of its capital stock, exclusive of the amount of money then actually deposited in the bank for safe keeping ; and in case of excess, the directors, under whose administration such excess shall happen, shall be liable for the same in their private and individual capacities ; and an action may, in such case, be brought against them, or any of them, their or any of their heirs, executors or administrators, in any court having competent jurisdiction, by any creditor or creditors of the said corporation ; and may be prosecuted to judgment and execution, any condition, covenant or agreement to the contrary notwithstanding ; but this shall not be construed to exempt the said rail road company, or the said bank, or the lands, tenements, goods or chattels of the same from being also liable for said excess ; and such of the said directors as may have been absent when such excess was contracted or enacted, or such as may have dissented from the resolution or act whereby the same was contracted or enacted, may respectively exonerate themselves from being thus liable, by forthwith giving notice of the fact, and of their absence or dissent, to the stockholders, at a general meeting to be called for that purpose.

Amount of debt which the corporation may owe.

16. That dividends shall be made at least twice in every year, by the said corporation, of so much of the profits of the said bank as shall appear to the directors advisable ; and once in every year, the directors shall lay before the stockholders, at a general meeting, for their information, the amount of surplus profits, if any, after deducting losses and dividends.

Dividends and surplus.

17. That no officer of said bank other than a director, not being president, shall be permitted, either directly or indirectly, to carry on the business or trade of merchandise, factorage, brokerage, vendue, or the exchange of money or bills for profit ; and every such officer so trading, shall be removed from office by the directors, and shall not be re-eligible to any office in said bank or its branches. That no director or other officer of the said bank shall, directly or indirectly, receive any compensation for any agency, for negotiating any business with the bank or its branches, in procuring discounts, renewing notes, or receiving moneys for individuals or notes discounted ; and any such director or other officer thus receiving compensation, shall be removed from office, and disqualified from thereafter holding any office in said bank or its branches.

Officers of bank restricted in trade, &c.

18. That a meeting of the stockholders may be called at any time by the president and directors, or a majority of them, or by any director who may protest against the proceedings of the board, and who may wish the propriety of his dissent to be considered by the stockholders, or whenever the holders of ten thousand shares

When a meeting of the stockholders may be called.

What property
bank may hold.

or upwards, shall require the same ; provided, that no such meeting of the stockholders shall be competent to transact business, unless one month's notice thereof be given in at least two public gazettes, in each of the said states, and unless a majority of the stock in the said bank be represented. That the lands, tenements and hereditaments which it shall be lawful for the said corporation to hold, shall be only such as may be requisite for its immediate accommodation, for the transaction of business, such as shall have been bona fide mortgaged or assigned to it by way of security or payments for debts previously contracted in the course of its dealings, and such as shall have been purchased at sales upon judgments previously obtained.

Shares of rail
road and bank
connected.

19. Each share in the bank shall be inseparably connected with a share in the rail road company, and shall never be transferred without it ; and the forfeiture of a share in the rail road company, for the non-payment of any instalment called for thereon, shall induce a forfeiture to the bank corporation of the corresponding bank share. The stock of said bank, and the corresponding rail road stock shall be assignable and transferable, according to such regulations, and upon such terms, as may be prescribed and fixed by the bank corporation, or the directors thereof.

Bills or notes
binding, as-
signable, &c.

20. The bills or notes which may be issued by order of the said bank corporation, signed by the president, and countersigned by the principal cashier or treasurer thereof, promising the payment of money to any person or persons, his, her or their order, or to the bearer, though not under the seal of the said corporation, shall be binding and obligatory on the said corporation, in like manner, and with the like force and effect, as upon any private person or persons, if issued by him, her or them, in his, her or their private capacity ; and shall be assignable and negotiable in like manner, as if they were so issued by such private person or persons ; that is to say, those which shall be payable to any person or persons, his, her or their order, shall be assigned by endorsement in like manner, and with like effect, as foreign bills of exchange now are ; and those which are payable to any person or persons, or bearer, shall be negotiable or assignable by delivery only.

Notes of twenty
dollars and
under, &c.

21. Notes of twenty dollars and under, may be signed by the president and cashier of the branch where they are payable, and shall have the same effect as they would have, if signed by the president and cashier of the principal bank.

Number of di-
rectors to con-
stitute a board.

22. That no less than five directors in the principal bank, or four in a branch, shall constitute a board for the transaction of business, of whom the president shall always be one, except in the case of sickness or necessary absence, when his place may be supplied by any other director, whom he, by writing, shall nominate for the purpose ; and in default of such nomination by the president, or in case of sickness or necessary absence of the person so nominated, the board of directors may, by ballot, appoint a temporary president.

23. The directors for the time being, shall have power to appoint such officers, clerks and servants under them, as shall be necessary for executing the business of said corporation, in such manner, and upon such terms as they shall deem necessary and proper; and shall also have power to remove such officers from time to time, at their will and pleasure; and shall be capable of exercising such other powers and authorities, for the well government and ordering of the affairs of the said corporation, as shall be prescribed, fixed and determined by the laws and regulations thereof.

Directors empowered to appoint and remove officers, clerks, &c.

24. That the president, cashier, and clerks employed in keeping the books of the said bank, shall be, and they are hereby declared to be exempted from the performance of ordinary militia duty, and from serving as jurors.

Officers exempt from public duties.

25. The capital of the said bank, and all the funds thereof, the shares of the stockholders therein, and the dividends thereon, shall be free and exempt from taxation of every kind, in each of the states granting the charter, until the said rail road shall be finished, and the stockholders in the company shall have derived an interest of six per centum per annum, for each year, upon their investments; after which, the State of North Carolina shall have the right to lay a tax, not exceeding one-fourth per centum, upon so much of the capital of the bank as is employed by the branch in that aforesaid State; except that its real estate, and its goods pledged for money lent, and its goods, the produce of its lands, may be taxed at the same rate as similar real estate and goods are taxed, in the states where the same may be situated.

Bank exempt from tax, until, &c.

26. That any real estates, bills, notes, moneys, profits or other property whatever, which may, on the dissolution of the said bank corporation, be owned or possessed by it, shall be held by the directors of the said bank, for the use and benefit of all persons holding shares in said corporation at the time of its dissolution, and their legal assignees and representatives, in average and proportion to the number or amount of said shares.

Property, on dissolution of bank, to be held for benefit of stockholders.

27. In case the rail road company shall finish the road with a double track from Charleston, or the rail road of the South Carolina Canal and Rail Road Company to the Ohio river, or shall unite it in the state of Kentucky with some other rail road, which may connect it with the Ohio river within ten years from the first day of January, eighteen hundred and thirtyseven; or in case, within the same period, the Louisville, Cincinnati and Charleston Rail Road Company shall finish the road with a double track from Charleston, or from the rail road of the South Carolina Canal and Rail Road Company, to the southern boundary of Kentucky; or in case the said Louisville, Cincinnati and Charleston Rail Road Company shall, within the same period, actually expend on the said road the sum of twelve millions of dollars, then the said bank shall have corporate existence for twentyone years after the expiration of the said ten years; otherwise it shall cease to have corporate existence after the expiration of the said ten years.

How long bank may have corporate existence.

Exemption from obligation to construct road in Kentucky, &c.

28. If the legislature of the state of Kentucky shall not, within one year from the first day of March, eighteen hundred and thirty-seven, discharge the rail road company from the obligation to make branches to the main road in that state ; and the company shall, within ten years from the first day of January, eighteen hundred and thirtyseven, construct a rail road with a double track from Charleston, or from the rail road of the South Carolina Canal and Rail Road Company, to the southern boundary of the state of Kentucky, or to the Cumberland river, then the said rail road company shall continue to exist as a body corporate, in the states of South Carolina, North Carolina, and Tennessee, with all the rights and privileges, appertaining to it in those states, discharged from all obligation to construct any rail road in the state of Kentucky, or to have any directors residing in that state ; and the bank hereby chartered, shall have corporate existence in such of the states as shall assent hereto, with all the rights and privileges, and subject in all respects to the conditions herein contained ; discharged from all obligations to establish or construct any road in the state of Kentucky.

Cases in which charter shall be revoked.

29. It is hereby declared, that in case the rail road company shall not within five years from the first day of January, eighteen hundred and thirtyseven, have called in and expended or made contracts to the amount of three millions of dollars for the construction of the road, the grant of banking privileges hereby conferred shall cease and be revoked. In case the construction of the road shall be suspended after the bank goes into operation for one year, before the final completion of the road, then this charter shall be taken and deemed as null and void. But the bank shall, in this contingency, be allowed two years for winding up their concerns, without the privilege of doing new business.

Branch in this State.

30. The said bank may establish a branch in this State for the transaction of business, pursuant to the provisions herein before contained.

Restrictions as to location and capital.

31. *Be it further enacted*, That it shall not be lawful for the said bank to establish any branch bank or agency in the State of North Carolina, to the eastward of the Catawba river, nor to employ in this State a larger amount of capital than one million of dollars, without the consent of the legislature first had and obtained.

Counterfeiting and forgery, felony.

32. That if any person shall falsely forge or counterfeit, or willingly aid or assist in falsely making, forging or counterfeiting, any bill or note, check or draft, purporting to be, or in imitation of any bill, note, check or draft, issued by order of said corporation, with intent to defraud : every such person so offending shall be deemed and judged guilty of felony ; and being convicted thereof, before any court of record in this State, shall be punished as the law directs in cases of forgery.

Legislature to order a *scire facias* to issue.

33. *Be it further enacted*, That it shall be lawful for the General Assembly, whenever it shall have reason to believe that the charter hereby granted has been violated, to order a *scire facias* to be sued out from the superior court of the county in

which the branch bank hereby authorized shall be established, in the name of the State of North Carolina, which shall be executed upon the president, any two of the directors, or upon the cashier of the said branch bank for the time being, at least ten days before the commencement of the term of said court, calling on said corporation to shew cause wherefore the charter hereby granted shall not be declared void ; and it shall be lawful for the said court upon the return of said *scire facias* (unless good cause be offered for a continuance) to examine into the truth of the alleged violation, and if such violation shall be made to appear, then to pronounce and adjudge that the said charter is forfeited and annulled ; *Provided, however,* every issue of fact which may be joined between the State of North Carolina and the corporation aforesaid, shall be tried by jury. And it shall be lawful for the court aforesaid to require the production of such of the books of the corporation as it may deem necessary for the ascertainment of the controverted facts ; and it may be lawful for such person as may appear for the State, or for the corporation, being dissatisfied with such final judgment as may be had in said court, to appeal to the supreme court of the State : *Provided, however,* that in all cases wherein the charter of said bank shall be adjudged to be forfeited, and the corporation dissolved, such dissolution or forfeiture being declared, shall not extinguish the debts due to or from said corporation ; but the court rendering such final judgment, shall proceed to appoint a receiver or receivers, who shall have full power to collect, in his or their own names, all the debts due to said corporation ; to take possession of all its property ; to sell, and dispose, and distribute the same in order to pay off the creditors of said corporation, and afterwards to reimburse the stockholders thereof, under such rules, regulations, provisions, and restrictions as the court rendering such final judgment shall direct.

34. *Be it further enacted,* That no judgment, sentence or decree which may be pronounced, declaring the said charter forfeited and annulled, shall be so construed, to exempt the said corporation or any of its effects from the redemption of all debts, dues, and demands which may be against it at the time of pronouncing such final judgment, sentence, or decree, or from distribution among the stockholders, after the payment of debts.

Decree of court not to affect the rights of claimants.

35. *Be it further enacted,* That none but citizens of the United States shall have the right of voting at the meeting of the stockholders.

Citizens only shall vote.

36. *Be it further enacted,* That no bank corporation shall subscribe or hold shares in this bank, directly or indirectly : *Provided* there should be, at any stage of the charter, an amount of subscription more than is authorized by the charter, that the subscriptions of non-residents of those states which have or may hereafter sanction this charter, shall be stricken off, before any reduction shall be made in the subscription of the citizens of those states, whose sanction is required by this charter.

No bank corporation shall hold shares.

BOUNDARY OF THE STATE.

See Bill of Rights, section 25, volume I., page 9.

WITH VIRGINIA.

AN ACT FOR EXTENDING THE BOUNDARY LINE BETWEEN THIS STATE AND THE COMMONWEALTH OF VIRGINIA.

(Passed in the year 1779.)

WHEREAS the inhabitants of this State, and those of the Commonwealth of Virginia, have settled themselves farther westwardly than the boundary between the said two states hath hitherto been extended ; and it becomes expedient, in order to prevent disputes among such settlers, that the same should be now further extended and marked ;

Line to be run.

2. *Be it therefore enacted, &c.*, That Oroondates Davis, John Williams (Caswell,) James Kerr, William Bailey Smith, and Richard Henderson, or any three of them, be, and they are hereby appointed commissioners, with full power and authority to meet with other commissioners from the Commonwealth of Virginia, and to proceed to extend and mark the line between that Commonwealth and this State, beginning where Joshua Frye and Peter Jefferson, commissioners on the part of Virginia, together with Daniel Weldon and William Churton, from North Carolina, formerly appointed to run the said line, ended their work ; and if that be found to be truly in the latitude of thirtysix degrees thirty minutes north, then to run from thence due west to Tennessee or the Ohio river ; or if it be found not truly in the said latitude, then to run from the said place due north or due south, into the said latitude, and thence due west to the said Tennessee or Ohio river, correcting the said course at due intervals by astronomical observations. If either of the commissioners by this act appointed shall decline, or be unable to go through the duties of his appointment, the governor and council shall appoint some other to act in his stead.

(The other parts of this act relate to the appointment of surveyors, &c., and compensation to those employed, except the following clause :)

And the said commissioners are hereby directed to make report of their proceedings to the General Assembly.

WITH SOUTH CAROLINA AND GEORGIA.

AN ACT APPOINTING COMMISSIONERS TO EXTEND THE BOUNDARY LINE OF THIS STATE AND THE STATE OF SOUTH CAROLINA.

(Passed in the year 1803.)

WHEREAS, it is of high importance that the limits of this State should be accurately defined ; and whereas all former laws have failed to have the desired effect :

1. *Be it therefore enacted, &c.*, That there shall be appointed by joint ballot of both houses of the General Assembly, and commissioned by the governor, three commissioners to meet the commissioners who already are, or hereafter may be appointed by the State of South Carolina, at such time and place as the executives of the two States shall or may direct, and with them to settle all and singular the differences, controversies, disputes and claims that may subsist between this State and the State of South Carolina; and to fix and establish permanently the boundary line between this State and the State of South Carolina, and the same to mark and ascertain as distinctly as may be, as far as the eastern boundary of the territory ceded by the State of North Carolina to the United States: *Provided, nevertheless*, That the extension of the said line shall not affect the titles of any person or persons to the lands entered in either of the said states; and this State will, at all times hereafter, ratify and confirm all and whatsoever the said commissioners, or a majority of them, shall do in and touching the premises by virtue of this act, and the same shall be binding on this State.

Three commissioners to be appointed.

To settle differences.

Titles of land not to be affected.

(Sections 2 and 4 provide merely for the expenses of the commission.)

3. *And be it further enacted*, That in case of death, resignation or refusal to act, of any of the commissioners herein appointed, the governor of the State is hereby empowered to appoint and fill up any vacancy occasioned in manner as aforesaid; and that the governor for the time being, shall, as soon as may be, after the ratification of this act, transmit a copy thereof to the executive of the State of South Carolina, accompanied with a request that the State of South Carolina should co-operate without delay with this State in effecting the purposes of this act.

Governor to fill vacancies, &c.

5. *And be it further enacted*, That all former acts and parts of acts coming within the meaning of this act, are hereby repealed and made void.

Former acts repealed.

AN ACT TO AMEND AN ACT ENTITLED "AN ACT APPOINTING COMMISSIONERS TO EXTEND THE BOUNDARY OF THIS STATE AND THE STATE OF SOUTH CAROLINA," PASSED AT RALEIGH, IN THE YEAR 1803.

(Passed in the year 1804.)

Be it enacted, &c., That from and after the passing of this act, the governor for the time being, and his successor, shall be and he is hereby vested with full power and authority to enter into any compact or agreement, that he may deem most advisable for the interest of this State, with the legislative or executive powers of the states of South Carolina and Georgia, relative to the establishing permanently, the boundary line between this State and the said states of South Carolina and Georgia, and for the extension of the same: *Provided nevertheless*, That nothing herein contained shall be so construed as to affect any part or clause of the above recited act.

Governor vested with power to treat with South Carolina and Georgia.

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO AMEND AN ACT PASSED IN THE YEAR 1803, ENTITLED AN ACT APPOINTING COMMISSIONERS TO EXTEND THE BOUNDARY LINE OF THIS STATE AND THE STATE OF SOUTH CAROLINA," PASSED AT RALEIGH, IN THE YEAR 1804.

(Passed in the year 1806.)

Preamble.

Whereas by the above mentioned act, power and authority is given to the governor to enter into any compact he may deem most advisable for the interest of the State, with the legislative or executive powers of the states of South Carolina and Georgia, relative to the extension and establishment of the boundary line between this State and the said states of South Carolina and Georgia, in which said act there is a proviso, that nothing therein contained should affect any part or clause of the act passed in the year one thousand eight hundred and three : And whereas doubts are entertained whether the provisionary clause in the act passed in the year one thousand eight hundred and three, is not by the proviso in the act of one thousand eight hundred and four, made to have relation to the state of Georgia as well as to the state of South Carolina : And whereas such provisionary clause can answer no valuable purpose, so far as it respects the state of Georgia, and may be an impediment to an amicable and speedy adjustment and settlement of boundary between the two states :

Proviso in the act of 1804 not to have any relation to the state of Georgia.

Be it therefore enacted, &c. That the *proviso* in the act passed in the year one thousand eight hundred and four, entitled "An act to amend an act, entitled an act appointing commissioners to extend the boundary line of this State and the state of South Carolina," passed at Raleigh in the year one thousand eight hundred and three, shall not be construed to extend or have any relation to the state of Georgia, any thing therein contained to the contrary notwithstanding.

AN ACT TO RATIFY AND CONFIRM CONVENTIONAL ARTICLES OF AGREEMENT BETWEEN THIS STATE AND THE STATE OF SOUTH CAROLINA.

(Passed in the year 1808.)

Preamble.

Whereas the states of North Carolina and South Carolina, by their respective commissioners, duly authorized for that purpose, did on the eleventh day of July, one thousand eight hundred and eight, at Columbia, in the state of South Carolina, enter into articles of conventional agreement as follow :

Articles of agreement

ART. 1. The line beginning at a cedar stake on the Atlantic Ocean, and running thence northwest and west to a point at the Salisbury road, near the Catawba lands, as described in the plans of survey begun in one thousand seven hundred and thirtyfive, and ended in one thousand seven hundred and fortysix, shall be and remain the same in its whole extent, as heretofore established.

ART. 2. From which point at the Salisbury road, mentioned in the preceding article, instead of following the road to where it enters the Catawba lands, as at present, which road is liable to change and uncertainty, a line shall be run and marked in a direct course to the southeast corner of the said Catawba lands at Twelve Mile Creek, which line is hereby established in lieu of the said road; thence along the line of the said Catawba lands, pursuing its different courses to where the Catawba river enters the said lands on the north, thence with the middle stream of that river northwardly to the confluence of the northern and southern branches thereof, and from thence due west along the line as run and marked by commissioners in the year seventeen hundred and seventytwo, to the termination of the said line.

ART. 3. And from the termination of the said line of one thousand seven hundred and seventytwo, a line shall be extended in a direct course to that point in the ridge of mountains which divides the eastern from the western waters, where the thirty-fifth degree of north latitude shall be found to strike it nearest the termination of said line of one thousand seven hundred and seventytwo, thence along the top of said ridge to the western extremity of the state of South Carolina. It being understood that the said state of South Carolina does not mean by this arrangement to interfere with claims which the United States, or those holding under the act of cession to the United States, may have to lands which may lie, if any there be, between the top of the said ridge and the said thirtyfifth degree of north latitude.

ART. 4. The contracting parties, for their mutual benefit and convenience, agree to adopt and confirm the lines of boundary as prescribed in the preceding articles, and to renounce respectively to each other every right, claim and pretension which may be inconsistent with the true meaning and purpose of this agreement, which is to establish between the states of South Carolina and North Carolina a permanent and unalterable boundary: *Provided, nevertheless*, that in case at any time this agreement shall be contested or not conformed to after the ratification of it by the legislatures of said states, all the rights, claims and pretensions herein intended to be renounced and conveyed, and all other rights and claims in relation thereto, shall revive and exist in the same force and effect as they did before the signing of these presents, in favor of the state which shall conform thereto.

In order, therefore, that the said conventional agreement may be carried into complete effect,

Be it enacted, &c. That the said conventional agreement, and all and every clause and article thereof, be, and the same are hereby fully ratified and confirmed.

Ratified and confirmed.

AN ACT CONCERNING THE BOUNDARY BETWEEN THIS STATE AND THE STATE OF SOUTH CAROLINA.

(Passed in the year 1813.)

Preamble.

Whereas commissioners duly appointed and authorized on the part of this State, and commissioners appointed and authorized in like manner on the part of the State of South Carolina, did meet on the 20th of July last, near the termination of the line of 1772, in pursuance of an arrangement made by the governors of the two states, for the purpose of carrying into effect, the articles of a conventional agreement entered into at Columbia on the 11th day of July, in the year 1808, and subsequently ratified by the legislatures of the said states respectively : And whereas the said commissioners, in various conferences on the matters committed to them, having on each part maintained different opinions, as to the practicability of fixing a boundary line, according to the true intent and meaning of the third article of the said conventional agreement ; and not being able to agree thereon, did on the 4th day of September last, by an instrument under their hands and seals, agree to recommend to the legislatures of their states respectively, the following as a substitute for the said third article of the conventional agreement, viz.

A provisional article of agreement, entered into between the commissioners of the State of North Carolina and the commissioners of the State of South Carolina, at M'Kinney's, on Toxaway river, on the fourth day of September, in the year of our Lord, one thousand eight hundred and thirteen :

Article of agreement, entered into by the commissioners of North and South Carolina.

Whereas the undersigned, John Steele, Montfort Stokes, and Robert Burton, on the part of North Carolina, and Joseph Blythe, Henry Middleton and John Blasingame, on the part of the State of South Carolina, duly appointed commissioners by their respective states, to carry into effect a conventional agreement on boundary, signed at Columbia, in the state of South Carolina, on the 11th day of July, 1808, did meet on the 20th day of July last, near the termination of the line of 1772, and have continued their meetings by several adjournments to this present date ; and whereas the said conventional agreement, by the third article thereof, provides that from the termination of the line of 1772, a line shall be extended in a direct course to that point in the ridge of mountains which divides the eastern from the western waters, where the 35th degree of north latitude shall be found to strike it, nearest to the termination of the said line of 1772 ; thence along the top of said ridge to the western extremity of the State of South Carolina. The commissioners above named, after ascertaining from the observations and reports of the astronomers accompanying them the 35th degree of north latitude at several points, and lastly on the eastern bank of Chatooga river, and after conferring fully on the matters committed to them, perceiving real difficulties to exist in the execution, and having on each part maintained different opinions as to the practicability of fixing on a boundary

line according to the true intent and meaning of the said article : Considering nevertheless that it is essential to the interests and convenience of both states that a line of separation and limits should be ascertained and established with as little delay as possible, the said commissioners have agreed and do hereby agree to recommend to the legislatures of their states respectively, the following article as a substitute for the said article of the conventional agreement, which substitute when ratified by the legislatures of the said states shall be to all intents and purposes binding and conclusive and not before ; viz : From the termination of the line of 1772 a line shall be extended due west to the ridge dividing the waters of the north fork of Pacolet river from the waters of the north fork of Saluda river ; thence along the said ridge to the ridge that divides the Saluda waters from those of Green river ; thence along the said ridge to where the same joins the main ridge which divides the eastern from the western waters, and thence along the said ridge to that part of it which is intersected by the Cherokee boundary line run in the year 1797 ; from the centre of the said ridge at the point of intersection the line shall extend in a direct course to the eastern bank of Chatooga river, where the 35th degree of north latitude has been found to strike it, and where a rock has been marked by the aforesaid commissioners with the following inscription, viz. lat. 35°, 1813. It being understood and agreed, that the said lines shall be so run as to leave all the waters of Saluda river within the state of South Carolina ; but shall in no part run north of a course due west from the termination of the line of 1772.

In order therefore, that the aforesaid provisional article of agreement may be carried into full and complete effect,

Be it enacted, &c., That the said provisional article of agreement, be, and the same is hereby fully ratified and confirmed. Article ratified.

AN ACT TO APPOINT COMMISSIONERS TO RUN THE BOUNDARY
LINE BETWEEN THIS STATE AND SOUTH CAROLINA.

(Passed in the year 1814.)

Whereas the provisional article of agreement entered into between the commissioners of the State of North Carolina, and the commissioners of the State of South Carolina, at M'Kinney's, on Toxaway river, on the fourth day of September, in the year one thousand eight hundred and thirteen, hath been ratified by the legislatures of the States of North Carolina and South Carolina respectively, and it is necessary that the line established by said provisional article should be run and marked.

Be it enacted, &c. That General Thomas Love, General Montfort Stokes and Colonel John Patton be, and the same are hereby appointed commissioners on the part of this State, to meet such commissioners as may be appointed by the State of South Caro- Commissioners appointed to run the line.

lina, to run and mark said line, agreeably to said provisional article, and the said commissioners shall have power to employ one or more surveyors and chain carriers; and the said commissioners, surveyors and chain carriers shall receive the same compensation for their services as those who have already been employed in running the boundary line between this State and South Carolina.

AN ACT TO RATIFY AND CARRY INTO EFFECT AN AGREEMENT RELATIVE TO THE BOUNDARY LINE BETWEEN THIS STATE AND THE STATE OF SOUTH CAROLINA ENTERED INTO BY THE COMMISSIONERS OF THE SAID STATES RESPECTIVELY ON THE SECOND DAY OF NOVEMBER, A. D. EIGHTEEN HUNDRED AND FIFTEEN, AND TO ESTABLISH AND CONFIRM THE SAID BOUNDARY LINE AS SURVEYED, MARKED AND AGREED UPON BY THE SAID COMMISSIONERS.

(Passed in the year 1815.)

Preamble.

Whereas Thomas Love, Montfort Stokes and John Patton, commissioners duly appointed and authorized on the part of the State of North Carolina: and Joseph Blythe, John Blassengame and George W. Earle, commissioners duly appointed and authorized on the part of the State of South Carolina, to run and mark the boundary line between the said states agreeably to a provisional article of agreement entered into between the said states by their respective commissioners, at M'Kinney's on Toxaway river, on the fourth day of September, one thousand eight hundred and thirteen, did meet on the eleventh day of September, one thousand eight hundred and fifteen, near the termination of the line of one thousand seven hundred and seventytwo, and proceed to run and mark the said boundary line agreeably to the terms of the said provisional article: And whereas the said commissioners having ascertained by observation and by actual experiments that a course due west from the termination of the line of seventeen hundred and seventytwo would not strike the point of the ridge dividing the waters of the north fork of Pacolet river, from the waters of the north fork of Saluda river, in the manner contemplated by the commissioners who entered into the said provisional article of agreement on behalf of the said states, and finding also that running a line on the top of the said ridge so as to leave all the waters of Saluda river within the state of South Carolina, would, (in one place) run a little north of a course due west from the termination of the said line of seventeen hundred and seventytwo, and that consequently the said provisional article of agreement could not be strictly and literally carried into effect: and whereas the aforesaid commissioners for the purpose of having a natural boundary as far as the Cherokee boundary line, run in the year seventeen hundred and ninetyseven, did agree that the boundary line between the said states should be run on the ridge around the head springs of the north fork of Saluda river; and did run and mark

the said boundary line in pursuance of such agreement, and have unanimously recommended that the same be established by the legislatures of the respective states as the line intended by the provisional article aforesaid, and as the permanent line of separation and limits between the said states.

1. *Be it therefore enacted, &c.* That the boundary line so run and marked by the commissioners aforesaid and described in their joint report and chart of survey submitted to the legislatures of their respective states, that is to say; beginning at a stone set up at the termination of the line of seventeen hundred and seventytwo and marked "N. C. and S. C. September fifteenth, one thousand eight hundred and fifteen," running thence west four miles and ninety poles to a stone marked N. C. and S. C. thence south twentyfive degrees, west one hundred and eighteen poles to the top of the ridge dividing the waters of the north fork of Pacolet river from the waters of the north fork of the Saluda river, thence along the various courses of the said ridge (agreeably to the plat and survey signed by the commissioners and surveyors of both states) to the ridge that divides the Saluda waters from those of Green river, thence along the various courses of the said ridge agreeably to the said plat and survey to a stone set up where the said ridge joins the main ridge which divides the eastern from the western waters and which stone is marked N. C. and S. C. September twentyeighth, one thousand eight hundred and fifteen, thence along the various courses of the said ridge agreeably to the said plat and survey to a stone set up on that part of it which is intersected by the Cherokee boundary line run in the year one thousand seven hundred and ninetyseven, and which stone is marked N. C. and S. C. one thousand eight hundred and thirteen: and from the said last mentioned stone on the top of the said ridge at the point of intersection aforesaid a direct line south sixtyeight and onefourth degrees west, twenty miles and eleven poles to the thirtyfifth degree of north latitude at the rock in the east bank of the Chatooga river, marked lat. thirtyfive, A. D. one thousand eight hundred and thirteen, in all a distance of seventyfour miles and one hundred and eighty-nine poles, be, and the same is hereby established as the boundary line between this State and the state of South Carolina, from the termination of the said line of one thousand seven hundred and seventytwo to the rock in the east bank of the Chatooga river marked lat. thirtyfive, A. D. one thousand eight hundred and thirteen, and that the agreement entered into by the commissioners aforesaid respecting the said boundary line, be and the same is hereby ratified and confirmed.

Establishing
the boundary
line between
this State and
South Carolina.

2. *And be it further enacted,* That the joint report of the said commissioners submitted to this legislature, and all other conventions and agreements entered into between the said states respecting the boundary line between the said states, and the reports of the several commissioners heretofore appointed on behalf of this State to conclude such conventions and agreements, shall be recorded by the secretary of state in a well bound book, in the order in which such conventions, agreements and reports have been severally made,

Secretary of
state required
to record the
agreements.

and that the secretary of state be allowed for this service such sum as his excellency the governor shall deem the same to be reasonably worth, to be paid by the treasurer upon a warrant from the governor.

WITH GEORGIA.

(An Act passed in the year 1807.)

Preamble.

WHEREAS the States of Georgia and North Carolina, by their respective commissioners duly authorized for that purpose, did, on the eighteenth day of June, in the year of our Lord one thousand eight hundred and seven, at Buncombe court house, enter into articles of conventional agreement, as follow :

Articles of conventional agreement.

ART. 1. It is mutually agreed and admitted, the territories of the said States of Georgia and North Carolina, as far as they adjoin each other, are, and of right ought to be, separated and bounded by the thirtyfifth degree of north latitude ; and for the purpose of preventing in future all manner of dissensions concerning jurisdiction, the underwritten commissioners will proceed forthwith to ascertain the said thirtyfifth degree of north latitude, and to run and mark the line accordingly ; which line, when ascertained and completed, with joint concurrence, shall forever after be regarded as the line of separation and boundary between the two states.

ART. 2. The commissioners on the part of Georgia do not consider their powers competent to enter into any stipulations which would bind the government of the said state to confirm entries or grants for land heretofore made or obtained under the authority of the State of North Carolina, which land, on the running of the line, may be found to be within the State of Georgia ; but, impressed with the justice of a certain proportion of the said claims, and the peculiar circumstances which entitle them to consideration, the said commissioners promise and agree to recommend them in a special manner to the liberality of the government, not doubting but that the legislature thereof will, by law, provide for the confirmation and establishment of the said titles, in a manner which will afford a satisfactory and adequate relief. And to this end, the said commissioners will recommend the establishment of an impartial tribunal for the special purpose of inquiring into and ascertaining the various descriptions of such claims, and of determining on each according to their respective merits, and as reason and equity may require ; which tribunal the said commissioners will also recommend to be composed of three persons to be appointed and paid by each state ; but they shall convene and hold their meetings in the state of Georgia, and their decisions shall be conclusive.

ART. 3. There having been great dissensions between the people resident in the neighboring counties of Buncombe and Walton,

and the said dissensions having produced many riots, routs, affrays, assaults, batteries, trespasses, woundings and imprisonments, as well on the one side as on the other, and it being of primary importance that peace and tranquillity should be restored, and all animosity and ill-will forever buried between the people, who, from their local situations, will, in all probability, be constrained to continue in the vicinity of each other; and as the several outrages committed on both sides proceeded more (as the undersigned are impressed) from a mistaken zeal to support the government to which they thought themselves constitutionally bound, than from a wish to injure their neighbors or disturb the public peace, the undersigned agree to recommend, in the most earnest manner, to the legislatures of their respective states, to pass laws of amnesty, forgiveness and oblivion for all such offences, (under the degree of capital) as may have been committed within the said counties of Buncombe and Walton respectively, subsequent to the tenth day of December, in the year 1803, and which shall have arisen from, and had relation to the disputes which existed concerning the jurisdictions of the two states.

Pardon of offences in Buncombe recommended.

And whereas the said commissioners, with like authority, did, on the 27th day of June, in the year aforesaid, at Douthard's Gap, enter into articles in addition and supplementary to the convention agreed on between the commissioners of Georgia and North Carolina, at Buncombe court house, on the eighteenth day of June, in the year aforesaid, which articles are as follow :

Supplementary convention.

The commissioners of the states of Georgia and North Carolina having discovered, by repeated astronomical observations made on the Blue Ridge, and elsewhere, that the thirtyfifth degree of north latitude is not to be found on any part of said ridge of mountains, east of the line established by the general government, as the temporary boundary between the white people and the Indians; and having no authority to proceed over that boundary for the purpose of ascertaining the said thirtyfifth degree of north latitude, and of running and marking the line accordingly, and being desirous that all causes of collision and irritation between the jurisdictions and people of the two states may be effectually and completely prevented, have agreed to the following articles, in addition and supplementary to the convention agreed to at Buncombe court house, on the eighteenth day of the present month, viz. :

Concerning the thirtyfifth degree of north latitude.

ART. 1. The commissioners of Georgia, for and on the part of their state, acknowledge and admit, which acknowledgment and admission are founded on the aforesaid astronomical observations, that the state of Georgia hath no claim to the soil or jurisdiction of any part of the territory north or west of the ridge of mountains which divides the eastern from the western waters, commonly called the Blue Ridge, and east or south of the present temporary boundary line between the white people and the Indians; and that they will consequently recommend to the legislature of the state of Georgia to repeal, at their next ensuing

Admission by the commissioners of Georgia.

session, the act to establish the county of Walton, and to abrogate and annul all executive and ministerial or other proceedings for the organization thereof.

Commissioners of North Carolina promise to recommend that the laws concerning penalties in the county of Buncombe be executed with clemency.

ART. 2. The commissioners on the part of the state of North Carolina, promise and agree to recommend to their government, and particularly to the magistrates, sheriffs and other officers, civil and military, in the county of Buncombe, to execute the laws concerning forfeitures and penalties, and in any other respect where the state may be concerned, (under the degree of felony,) upon and towards the people who have adhered to the state of Georgia in the late dissensions concerning jurisdiction, with mildness and clemency ; and if the said officers can do it consistently with their obligations of official duty, that they forbear to institute suits, and to distrain or execute for forfeitures and penalties incurred as aforesaid, between the tenth day of December, in the year eighteen hundred and three, (1803,) and the date of this agreement, until the sense of the legislature shall be had and known thereon.

In order, therefore, that said conventional agreement, and the articles, additional and supplemental thereto, may be carried into full and complete effect :

The conventions confirmed.

Be it enacted, &c. That the said conventional agreement, and the articles in addition and supplementary thereto, and all and every article and clause thereof, be and the same are hereby fully ratified and confirmed.

AN ACT TO CONFIRM THE BOUNDARY LINE BETWEEN THIS STATE AND THE STATE OF GEORGIA SO FAR AS THE SAME HAS BEEN RUN.

(Passed in the year 1819.)

Whereas the states of Georgia and North Carolina, by their respective commissioners, duly authorized for that purpose, have run and marked in part, the boundary line between the said states, in conformity with articles of conventional agreement made and concluded by and between the said states, by their respective commissioners, at Buncombe court house, on the eighteenth of June, one thousand eight hundred and seven : And whereas the said first mentioned commissioners have reported the running and marking said boundary line as follows :—To commence at Elliott's rock, and run due west on the thirtyfifth degree of north latitude, and marked as follows : the trees on each side of the line with three chops, the fore and aft trees with a blaze on the east and west side, the mile trees with the number of miles from Elliott's rock, on the east side of the tree, and a cross on the east and west side ; whereupon the line was commenced under the superintendence of the undersigned commissioners jointly : Timothy Tyrrel, Esquire, surveyor on the part of the commissioners

The line as agreed to be run in 1807.

of the state of Georgia, and Robert Love, Esquire, surveyor on the part of the commissioners of the state of North Carolina—upon which latitude the undersigned caused the line to be extended just thirty miles due west, marking and measuring as above described, in a conspicuous manner throughout; in addition thereto, they caused at the end of the first eleven miles after first crossing the Blue ridge, a rock to be set up descriptive of the line, engraved thereon upon the north side, September 25th, 1819, N. C. and upon the south side, 35 degree N. L. G.; then after crossing the river Cowee or Tennessee, at the end of sixteen miles, near the road, running up and down the said river, a locust post marked thus, on the south side, Ga. October 14, 1819; and on the north side, 35 degree N. L. N. C., and then at the end of twentyone miles and three quarters, the second crossing of the Blue ridge, a rock engraved on the north side, 35 degree N. L. N. C. and on the south side, Ga. 12th Oct. 1819; then on the rock at the end of the thirty miles, engraved thereon, upon the north side, N. C. N. L. 35 degree G. which stands on the north side of a mountain, the waters of which fall into Shooting creek, a branch of the Highwasse, due north of the eastern point of the boundary line, between the states of Georgia and Tennessee, commonly called Montgomery's line, just six hundred and sixtyone yards.

As run in 1819.

1. *Be it enacted, &c.* That the said boundary line, as described in the said report, be, and the same is hereby fully established, ratified and confirmed forever, as the boundary line between the states of North Carolina and Georgia. Confirmed.

2. *And be it further enacted, &c.* That this act shall be in force from and after the passing thereof.

WITH TENNESSEE.

(See Act of Cession, passed in the year 1789, under the head of "Cession Acts," volume II.)

AN ACT FOR APPOINTING COMMISSIONERS TO SETTLE THE BOUNDARY LINE BETWEEN THIS STATE AND THE STATE OF TENNESSEE.

(Passed in the year 1796.)

WHEREAS it is necessary to prevent disputes between this State and its citizens, that the boundary line between this State and the State of Tennessee should be accurately and distinctly marked out and permanently established :

1. *Be it therefore enacted, &c.*, That Joseph M'Dowell, Mus-sendine Matthews and David Vance be, and they are hereby appointed commissioners, to meet the commissioners who are or may be hereafter appointed by the State of Tennessee, at such time and place as shall by the said commissioners, or a majority of them, be agreed on; and with them to settle all and every difference, Commissioners appointed to settle the boundary with Tennessee, &c.

controversy, dispute and claim that may subsist or arise between this State and the State of Tennessee with respect to the boundaries ; and to fix and permanently establish the boundary line between the two states, and the same to mark and ascertain, as distinctly as possible, agreeable to the true intent and meaning of said boundary between this State and the State of Tennessee, as described in an act, entitled, " An act for the purpose of ceding to the United States of America certain western lands therein described." And the commissioners on the part of this State shall cause an accurate plat or plan of the said boundary line to be made, specifying the courses, distances, natural and artificial marks, and return the same to the next General Assembly, to be preserved among the archives of the State. *Provided, nevertheless,* that the ascertainment of said line shall not affect the titles of any person to lands entered in either of the said states. And this State will at all times hereafter ratify and confirm all and whatever the said commissioners, or a majority of them, shall do in and touching the premises, and the same shall be binding on this State.

(The second section relates to the compensation of the commissioners and others employed.)

Vacancy of
commissioners
how supplied.

3. *Be it further enacted,* That in case of death, refusal to act, or resignation of any of the commissioners hereby appointed, the governor is hereby authorized and required, as speedily as may be, to appoint another commissioner or commissioners for the purposes aforesaid.

Governor to no-
tify the execu-
tive of Ten-
nessee, &c.

4. *Be it further enacted,* That the governor for the time being, shall as soon as may be in his power after the ratification of this act, transmit a copy thereof to the governor or executive of the State of Tennessee, accompanied with a letter of request, that the State of Tennessee may immediately proceed to take such measures as may be necessary to effect the appointment of commissioners on their part, to act jointly with those appointed by this act. But if it shall so happen, that the State of Tennessee shall fail to appoint commissioners to act as aforesaid, in adjusting amicably the boundary line of the two states ; or if commissioners appointed on the part of the State of Tennessee shall fail, or refuse to act with the commissioners herein appointed for effecting the purposes of this act, the commissioners herein and hereby appointed, are authorized, empowered and required, singly and by themselves, to proceed to take all and singular such measures, as under the laws and constitution of this State, and the laws and constitution of the United States, may be taken or had for effecting the purposes intended and had in view by this act.

AN ACT MAKING PROVISION FOR RUNNING THE BOUNDARY LINE
BETWEEN THIS STATE AND THE STATE OF TENNESSEE.

(Passed in the year 1819.)

Preamble.

Whereas it is essential to the interest of this State in the disposal of the lands lately acquired by the treaty from the Indians, and to the continuance of the good understanding now happily subsisting

between this State and the State of Tennessee, that the boundary line between the two states should be accurately run, distinctly marked, and permanently established.

1. *Be it enacted, &c.* That the governor shall, and he is hereby authorized to appoint three commissioners to meet the commissioners who may be appointed by the state of Tennessee, at such time and place as may be by the said commissioners, or by a majority of those representing the respective states, be agreed on, and with them to settle, run and mark the boundary line between this State and the state of Tennessee, agreeably to the true intent and meaning of the act of the General Assembly of this State, entitled "An act for the purpose of ceding to the United States of America certain western lands therein described."

Governor to appoint three commissioners, to run the line, &c.

2. *Be it further enacted,* That the governor, as soon as may be after the passing of this act, shall give notice thereof to the governor of the state of Tennessee, and shall request the appointment of commissioners on the part of the said state, to act with those appointed by this State in ascertaining, running and marking the boundary line between the two states; and this State will at all times hereafter, ratify and confirm all and whatsoever the said commissioners, or a majority of those of each state shall do, in and touching the premises, and the same shall be binding on this State.

Notice to be given to the governor of Tennessee.

3. *Be it further enacted,* That if it shall so happen that commissioners shall not be appointed by the state of Tennessee, to act with the commissioners of this State in amicably ascertaining and marking the boundary line between the states; or if it shall happen that the commissioners appointed by the state of Tennessee shall refuse to act with the commissioners on the part of this State, the commissioners on the part of this State are hereby authorized and required to proceed in running and marking said line from the Smoky mountain, where the line terminated which was run the year one thousand seven hundred and ninety-nine, under the direction of Joseph M'Dowell, Mussendine Matthews, and David Vance, commissioners appointed by the act of the General Assembly of this State, passed in the year one thousand seven hundred and ninety-six, for running and marking said line to the thirty-fifth degree of north latitude, according to the courses designated in the act of seventeen hundred and eighty-nine, entitled "An act for the purpose of ceding to the United States of America, certain western lands therein described." And the commissioners on the part of this State shall cause an accurate plan of said boundary line to be made, specifying the courses, distances, natural and artificial marks thereof, and return the same to the General Assembly of this State.

If no commissioners for Tennessee, then the commissioners for North Carolina to run the line and how.

4. *Be it further enacted,* That in case of the death, refusal to act, or resignation of any of the commissioners hereby appointed, the governor is hereby authorized and required, as speedily as may be, to appoint another commissioner or commissioners in the place of such as may have died, resigned or refused to act.

Governor to fill vacancy.

(Sections 5 and 6 relate to the compensation of the commissioners and others employed)

AN ACT TO CONFIRM THE BOUNDARY LINE BETWEEN THIS STATE
AND THE STATE OF TENNESSEE, AND FOR OTHER PURPOSES.

(Passed in the year 1821.)

Preamble.

1. Whereas the states of Tennessee and North Carolina, by their respective commissioners duly authorized for that purpose, have run and marked the boundary line between the said states, in conformity with their several instructions, and being legally authorized by the states to which they respectively belong; beginning where M'Dowell, Vance and Matthews terminated their line between the two states in the year one thousand seven hundred and ninety-nine, and agreeably to the act of the General Assembly, entitled "An act for the purpose of ceding to the United States of America certain western lands therein described," passed in one thousand seven hundred and eighty-nine; and in the eleventh article, called the Declaration of Rights, of the constitution of the state of Tennessee; which said dividing line, as run by the respective commissioners, beginning at a stone set up on the north side of the Catalouche turnpike road, and marked on the east side, N. C. one thousand eight hundred and twentyone, and on the west side Ten. one thousand eight hundred and twentyone; running thence a south westwardly course to the Bald rock, on the summit of the great Iron or Smokey mountain, and continuing southwestwardly on the extreme height thereof to where it strikes Tennessee river, about seven miles above the old Indian town Tallassee, crossing Porter's Gap at the distance of twentytwo miles from the beginning, passing Meigs's boundary line at thirtyone and a half miles, the Equinottey Path at fiftythree miles, and crossing Tennessee river at the distance of sixtyfive miles from the beginning, from Tennessee river to the main ridge, and along the extreme height of the same to the place where it is called Unacay or Unaka mountain, striking the old trading path leading from the valley towns to the overhill towns, near the head of the west fork of Tellico river, and at the distance of ninetythree miles from the beginning; thence along the extreme height of the Unacay or Unaka mountain to the southwest end thereof at the Unacay or Unaka turnpike road, where a corner stone is set up, marked N. C. on the east side, and Ten. on the west side, and where a hickory tree is also marked on the north side N. C. 101 m. and the south side Ten. 101 m. being one hundred and one miles from the beginning; from thence a due course south, two miles and two hundred and fiftytwo poles, to a spruce pine on the north bank of Highwassee river, below the mouth of Cane creek; thence up the said river the same course about one mile, and crossing the same to a maple marked W. D. and R. A. on the south bank of the river; thence continuing the same course due south eleven miles and two hundred and seventythree poles to the southern boundary line of the states of North Carolina and Tennessee, making in all one hundred and sixteen miles and two hundred and twenty poles from the beginning; and striking the southern boundary line twentythree poles west of a tree in said

line marked 72 m. to a square on the east side N. C. 1821, on the west side Ten. 1821, and on the south side G. The whole distinctly marked with two chops and a blaze on each fore and aft tree, and three chops on each side line tree, and mile marked at the end of each mile ; which line was run under the joint superintendence of commissioners appointed by the states of North Carolina and Tennessee, and a surveyor on the part of the commissioners of each state aforesaid.

2. *Be it enacted, &c.* That said boundary line, as described in the foregoing preamble, be, and the same is hereby fully established, ratified and confirmed as the boundary line between the states of North Carolina and Tennessee forever. Boundary line established.

3. *Be it enacted,* That a line run and known by the name of Montgomery's line, beginning six hundred and sixtyone yards due south of the termination of the line run by commissioners on the part of this State and the state of Georgia, in the year one thousand eight hundred and nineteen, ending on a creek near the waters of Shooting creek waters of the Highwassee, then along Montgomery's line till it strikes the line run by commissioners on the part of North Carolina and Tennessee, in one thousand eight hundred and twentyone, to a square post marked on the east side N. C. 1821, on the west side Ten. 1821, and on the south side G. be, and the same is hereby declared to be the boundary line between this State and the state of Georgia, so soon as the above line shall be ratified on the part of the state of Georgia, and the executive of this State officially informed thereof, then, the above line shall be and forever remain the dividing line between the two states of North Carolina and Georgia : any law to the contrary notwithstanding. Montgomery's line to be the boundary between North Carolina and Georgia.

BOUNDARIES OF COUNTIES.

ANSON.

AN ACT FOR ERECTING THE UPPER PART OF BLADEN COUNTY INTO A COUNTY AND PARISH, BY THE NAME OF ANSON COUNTY, AND ST. GEORGE'S PARISH; AND FOR APPOINTING A PLACE FOR BUILDING A COURT HOUSE, PRISON, AND STOCKS, IN THE SAID COUNTY.

(Passed in the year 1749.)

1. WE pray that it may be enacted, *And be it enacted, by His Excellency Gabriel Johnston, Esquire, Governor, by and with the advice and consent of His Majesty's Council, and the General*

Assembly of this province, and by the authority of the same,
 Division of the county. That Bladen county be divided by a line, beginning at the place where the south line of this province crosseth the westernmost branch of Little Pee-Dee river, then by a strait line to a place where the commissioners for running the southern boundary of this province crossed that branch of Little Pee-Dee river, called Drowning creek, thence up that branch to the head thereof; then by a line, to run, as near as may be, equidistant, from Saxpahaw river, and Great Pee-Dee river; and that the upper part of the said county and parish so laid off and divided, be erected into a county and parish, by the name of Anson county, and St. George's parish, and that all the inhabitants to the westward of the aforementioned dividing line, shall belong and appertain to Anson county: And that the said county and parish shall enjoy all and every the privileges, which any other county or parish in this province holds or enjoys.

Anson county erected.

(See Bladen, Rowan, Mecklenburg, Montgomery and Richmond.)

ASHE.

AN ACT FOR THE DIVISION OF WILKES AND TYRRELL COUNTIES.

(Passed in the year 1799.)

Whereas the great extent of the county of Wilkes, renders the attendance of many of the inhabitants thereof at courts and other public meetings, expensive, inconvenient and oftentimes impracticable: For remedy whereof,

County of Ashe established.

1. *Be it enacted, &c.* That all that part of the county of Wilkes lying west of the extreme height of the Apalachian mountains, shall be, and the same is hereby erected into a separate and distinct county by the name of Ashe.

AN ACT TO ESTABLISH PERMANENTLY THE DIVIDING LINE BETWEEN THE COUNTIES OF BURKE AND ASHE.

(Passed in the year 1814.)

Dividing line between Burke and Ashe.

Be it enacted, &c. That the following boundaries, to wit: beginning at the Yadkin spring, thence along the extreme height of the Blue ridge, to the head spring of Flat-top fork of Elk creek, thence down the meanders of said creek to the Tennessee state line, shall be and the same is hereby declared the permanent dividing line between the counties of Burke and Ashe.

AN ACT TO ANNEX PART OF WILKES COUNTY TO THE COUNTY OF ASHE.

(Passed in the year 1835)

1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That all that 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 northeastwardly course until it strikes the Ashe county line, be added to Ashe county.

2. *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.

3. *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.

4. *Be it further enacted,* That if any difficulties should arise as to 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 abovementioned, 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.

(See Wilkes.)

BEAUFORT.

AN ACT FOR ASCERTAINING THE BOUNDARY LINE BETWEEN TYRRELL AND BEAUFORT COUNTIES, AND BETWEEN EDGCOMB COUNTY, AND TYRRELL AND BEAUFORT COUNTIES.

(Passed in the year 1741.)

1. We pray that it may be enacted, *And be it enacted by His Excellency Gabriel Johnston, Esq. Governor, by and with the advice and consent of His Majesty's Council, and the General Assembly of this province, and it is hereby enacted by the authority of the same,* That each of the county courts of Tyrrell, Edgcomb and Beaufort, shall appoint one person, who shall settle and run the boundary line between Tyrrell and Edgcomb counties, and between part of Edgcomb and Beaufort counties, in manner following: that is to say, the said commissioners shall begin at the upper corner tree of Jenkin Henry's line, on the south side of Roanok river, and from thence, run a direct line to the mouth of Cheek's mill creek, on Tar river; and the said commissioners, as

Boundaries between Edgcomb, Tyrrell and Beaufort.

soon as the said line is finished, shall, under their hands, return the courses thereof into each of the courts of the aforesaid counties, which shall be recorded by the clerks of the said several courts ; and the said line so run, shall, forever after, be deemed the boundary line between Tyrrell and Edgcomb counties, and between Edgcomb and Beaufort counties, from Tyrrell county as far as Tar river.

Between Tyrrell and Beaufort.

2. *And be it further enacted by the authority aforesaid, That* the Flat swamp which, heretofore, was the boundary of Albemarle and Bath counties, shall, to the head of the said swamp, and from the head thereof, by a direct line to the aforesaid line between Tyrrell and Edgcomb counties, forever, be the boundary line between Tyrrell and Beaufort counties.

AN ACT TO APPOINT COMMISSIONERS TO CONTINUE RUNNING THE BOUNDARY LINE BETWEEN EDGCOMB COUNTY, TYRRELL AND PART OF BEAUFORT COUNTIES.

(Passed in the year 1748.)

1. Whereas the commissioners, appointed by an act, entitled, An act for ascertaining the boundary line between Tyrrell county and Beaufort county, and between Edgcomb county, and Tyrrell county, and Beaufort county, have run a dividing line between Edgcomb county, and Tyrrell county, and part of Beaufort county, and Edgcomb county, from Roanoak river, as far as the mouth of Cheek's mill creek, on Tar river, in Beaufort county ; and whereas the tax laid and collected in the said several counties, for defraying the charge of running the said boundary lines, is found insufficient for carrying on the same :

Commissioners appointed.

2. We therefore pray it may be enacted, *And be it enacted, by His Excellency Gabriel Johnston, Esq. Governor, by and with the advice and consent of His Majesty's Council, and General Assembly of this province, and it is hereby enacted by the authority of the same,* That Mr Joseph Howell and Mr Joseph Lane, be and are hereby appointed commissioners, for finishing the said line between part of Edgcomb, Beaufort, and Johnston counties, already begun and carried on, to the mouth of Cheek's mill creek, in Beaufort county, on Tar river, and from thence shall run, with a straight line to Contentnee, at the mouth of Tosneat swamp, and thence up the main stream of Contentnee, opposite to the mouth of Cypress swamp, on Tar river ; which said line, when run by the commissioners aforesaid, shall be by them entered on record, in the court of Edgcomb county aforesaid, and shall hereafter be deemed and taken to be the true bounds of the said county.

AN ACT FOR ADDING PART OF BEAUFORT TO CRAVEN COUNTY,
FOR ASCERTAINING THE DIVIDING LINE BETWEEN THE SAID
COUNTIES.

(Passed in the year 1757.)

1. Whereas the inhabitants of that part of Beaufort county, lying between Bay river and lower Broad creek, are, by reason of the removal of the court of the said county at a very great distance from the same, and are often put to great hardships and fatigue in attending their county court at such a distance; and whereas it would be much more convenient to the said inhabitants, if that part of the said county of Beaufort was added to Craven county:

2. *Be it therefore enacted by the Governor, Council, and Assembly, and it is hereby enacted by the authority of the same,* That that part of the said county of Beaufort, lying between Bay river and lower Broad creek as aforesaid, be from henceforth deemed, held, and taken to the part of Craven county; and that the inhabitants thereof be subject and liable to the same rules, orders, and taxes, as any other of the inhabitants of the said county of Craven now are, or shall hereafter be, subject or liable to: any law, usage, or custom, to the contrary, notwithstanding.

Part of Beau-
fort added to
Craven county.

3. And whereas the bounds of the said counties of Beaufort and Craven are very uncertain, by reason of a dividing line between the same never being as yet properly ascertained; *Be it therefore enacted by the authority aforesaid,* That from henceforward the bounds of the said counties be by Bay river, from the mouth thereof, up the main westernmost branch, to the head; thence by the Flat swamp that makes from the head of the said river; and from the head of the said Flat swamp, by a line to be run nearly equidistant between Tar and Neuse rivers; and that Mr John Hardy and Mr Joseph Bryan are hereby appointed commissioners for running the said line, which shall be at the expense of each county respectively.

Bounds be-
tween Craven
and Beaufort
ascertained.

AN ACT FOR ANNEXING PART OF THE COUNTY OF PITT TO
BEAUFORT COUNTY.

(Passed in the year 1785.)

Whereas many of the inhabitants of the county of Pitt have petitioned to be annexed to the county of Beaufort;

1. *Be it therefore enacted, &c.* That from and after the passing of this act, all that part of the county of Pitt, included in the following bounds, beginning at Craven county line, where it crosses Creeping swamp, and running with Creeping swamp and Checod swamp to the mouth of Round Island branch, then a direct course to the mouth of Pitch Hole branch, then with the swamp to Bear creek, then down Bear creek to Tar river, then down the river on the north side to the mouth of Tranter's creek, then up said creek to Martin county line, then with Martin, Beau-

Division line.

fort and Craven lines to the beginning, be and the same is hereby annexed to and shall be and remain a part of the county of Beaufort.

AN ACT TO ATTACH PART OF HYDE COUNTY TO BEAUFORT COUNTY.

(Passed in the year 1819.)

Part of Hyde
county added
to Beaufort.

Be it enacted, &c. That all that part of the county of Hyde, which lies upon the west side of Pungo river, be, and it is hereby added to, and made a part of the county of Beaufort.

(See Hyde, Pitt, Craven, Martin.)

BERTIE.

AN ACT APPOINTING THAT PART OF ALBEMARLE COUNTY, LYING ON THE WEST SIDE OF CHOWAN RIVER, TO BE A PRECINCT, BY THE NAME OF BERTIE PRECINCT.

(Passed in the year 1722.)

1. Whereas that part of Albemarle county lying on the west side of Chowan river, being part of Chowan precinct, is now inhabited almost to the utmost of the said county westward, and by reason of the remote situation thereof, the inhabitants, which are growing very numerous, cannot, without too great inconvenience, be continued any longer as part of Chowan precinct: Wherefore,

Bertie precinct
erected.

2. *Be it enacted by His Excellency the Palatine, and the rest of the true and absolute Lords Proprietors of the province of Carolina, by and with the advice and consent of the rest of the members of the General Assembly, now met at Edenton, at Queen Anne's creek, in Chowan precinct, for the northeast part of the said province, and it is hereby enacted by the authority of the same,* That that part of Albemarle county lying on the west side of Chowan river, being part of Chowan precinct, bounded to the northward by the line dividing this government from Virginia, and to the southward by Albemarle sound, and Morattuck river, as far up as Welch's creek, and then including both sides of the said river, and the branches thereof, as far as the limits of this government, be, and the same is hereby declared to be erected into a precinct, by the name of Bertie precinct, in Albemarle county; with all and every the rights and privileges, and other benefits and advantages whatsoever, as any other of the four precincts in Albemarle county can or may have, use, or enjoy.

(See Northampton, Hertford.)

BLADEN.

AN ACT TO CONFIRM AND ESTABLISH THE PRECINCTS OF ONSLOW AND BLADEN, AND FOR APPOINTING THEM DISTINCT PARISHES.

(Passed in the year 1734.)

1. Whereas by an act, entitled, An act for regulating vestries in this government, and for the better inspecting vestrymen and churchwarden's accompts of each and every parish in this government, it is enacted, that the southern part of this province shall be erected into a precinct, by the name of New Hanover precinct, and bounded to the northward by the Haul-over and Little Inlet, and to the southward by the southernmost bounds of the province; and as the precinct of New Hanover is now become very populous, and the extent thereof being found too incommodious to many of the inhabitants thereof, particularly those of New river, and the upper part of the Northwest river.

(The second section relates to Onslow.)

3. *And be it further enacted by the authority of the same,* That ^{Bladen precinct} the upper part of the Northwest river be erected into a precinct, ^{erected.} by the name of Bladen precinct; and that the said precinct be bounded to the southward as follows, viz. beginning at the mouth of Livingston's creek, and bounded by the said creek to the head thereof; and then, by a west line, to the bounds of the government; and that the said precinct be bounded to the northward by Black river, as follows, viz. beginning at the mouth of the said river, and bounded by the main river up to the fork, and that then the westernmost branch be the bounds to the head thereof.

AN ACT FOR ALTERING THE DIVIDING LINE BETWEEN THE COUNTIES OF BLADEN AND CUMBERLAND.

(Passed in the year 1764.)

1. Whereas the dividing line between the counties of Bladen and Cumberland, running northeast and southwest, is found to be inconvenient to the inhabitants of both said counties:

2. *Be it enacted by the Governor, Council, and Assembly, and by the authority of the same,* That from and after the passing of this ^{Dividing line.} act, the dividing line between the said counties of Bladen and Cumberland shall begin at the mouth of Rockfish, and shall run a due east course to Black river, and from the mouth of Rockfish creek, up the said creek to Gravely hill, and from thence a due west course to Drowning creek; and all the lands to the northward of the said line shall from henceforth be deemed and held to be a part of Cumberland county, and all the lands to the southward of

the said line shall be deemed and held to be a part of Bladen county ; any law to the contrary notwithstanding.

(The third section appoints commissioners to run this line.)

AN ACT FOR ADDING PART OF BRUNSWICK COUNTY TO BLADEN,
AND PART OF BLADEN TO BRUNSWICK COUNTY.

(Passed in the year 1777.)

1. Whereas that part of Brunswick county on the western side of Waggamaw lake, lying between the dividing line of Brunswick and Bladen counties, and the swamp called the Devil's Elbow, renders it extremely inconvenient for the few persons who reside thereon to attend courts and public duties in Brunswick county, being obliged to go a considerable distance into Bladen county, and to make a large circuit before they can get into their own county on any direct road ; and whereas the land on the northern side of the said swamp is of easy access on the Bladen side, and proves an asylum for vagabonds and persons of evil fame, who do not pay taxes in any county, and are out of the reach of any process that can issue from Bladen, to the great prejudice of the neighboring inhabitants ; and whereas those parts of Bladen county on the eastern side of the Northwest river, as high up the said river as Brunswick county reaches on the western side, make part of the plantations of the inhabitants of Brunswick county who live on the said river, and will make it very inconvenient and expensive for them to give in their lands and other estates in Bladen county, and subject them to many other inconveniences : for remedy whereof,

Part of Bladen
added to
Brunswick.

2. *Be it enacted, &c.*, That all that part of Brunswick county on the western side of Waggamaw lake, lying between Brunswick and Bladen line, and the southern side of the swamp known by the name of the Devil's Elbow, beginning at the outlet from the said lake, and running round the outermost side of the said swamp called the Devil's Elbow, until it intersects the said line a southwest course to the province line, shall be, and is hereby added to, and made part of Bladen county ; and that all those parts of Bladen county lying on the eastern side of the Northwest river, beginning at the upper corner of the plantation of John Grainger, Sen., Esq., on the same side of the river, and running thence a northeast course to Black river, including all the lands from the said line downwards to New Hanover line, be, and are hereby added to, and made part of Brunswick county.

AN ACT FOR ADDING PART OF ANSON COUNTY TO BLADEN.

(Passed in the year 1777.)

1. Whereas the inhabitants of the lower end of Anson county labor under great inconveniences in attending the courts and other public meetings of the said county at the court house thereof, and being more convenient for those purposes to the county of Bladen, are desirous to be annexed thereto ;

2. *Be it therefore enacted, &c.*, That James Pickett, Charles Medlock, Abraham Barns, and Richard Smith, Esquires, be, and they are hereby appointed commissioners, and they, or a majority of them, are required and directed, within three months after the passing of this act, to run and mark, or cause the same to be done, a line from Drowning creek bank, beginning where Overstreets bridge formerly was, thence running the shortest course to the dividing line between this State and the State of South Carolina ; and all that part bounded to the lower end by the line above directed to be marked, and along the said south line to where it crosses Drowning creek, shall be, and is hereby annexed to, and made part of the county of Bladen, and the inhabitants thereof shall be subject and liable to the same rules, orders, taxes, and privileges, as any other of the inhabitants of the said county of Bladen.

Part of Anson
added to Bladen.

AN ACT APPOINTING COMMISSIONERS TO RUN AND ESTABLISH THE BOUNDARY LINE BETWEEN THE COUNTIES OF BLADEN AND COLUMBUS.

(Passed in the year 1834.)

1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same*, That Josiah Nye and Marmaduke Powell, of the county of Columbus, and Daniel Shipman, and Shadrack Wooten of Bladen county, be, and they are hereby appointed commissioners, with power to employ such artist, chain carriers and attendants, as they may deem necessary, to enable them to run, ascertain and mark the boundary line between the counties of Bladen and Columbus, agreeably to the several acts of eighteen hundred and nine, and eighteen hundred and twentyone, establishing the boundary line between said counties ; and the line after being so run and marked, shall be, and the same is hereby declared, to be the dividing line between the said counties ; and the said commissioners, within six months after running the said line, shall make out two plats thereof, and return one to each of the county courts of Bladen and Columbus.

(See Anson, Orange, New Hanover, Cumberland, Brunswick, Robeson, Columbus.)

BRUNSWICK.

AN ACT FOR ERECTING PART OF ST. PHILIP'S PARISH, IN NEW HANOVER COUNTY, AND THE LOWER PART OF BLADEN COUNTY, INTO A SEPARATE COUNTY, BY THE NAME OF BRUNSWICK COUNTY; AND FOR DIVIDING THE COUNTY OF GRANVILLE, AND ERECTING THAT PART THEREOF CALLED ST. JOHN'S PARISH, INTO A SEPARATE AND DISTINCT COUNTY, BY THE NAME OF BUTE COUNTY.

(Passed in the year 1764.)

Brunswick
county erected.

1. *Be it enacted by the Governor, Council and Assembly, and by the authority of the same,* That that part of Bladen county which lies to the westward of the northwest branch of Cape Fear river, be divided from the upper part of Bladen county, by a line beginning at the upper corner of a tract of land on which the plantation of John Grange is situate, above the mouth of Beaver Dam creek, which plantation lately belonged to Mr Robert Howe, running from thence a direct course to the east side of the lake on Waggamaw river; and from thence by a west line to the bounds of the province, so as to leave all the inhabitants on the said lake in Bladen county; and that the said lower part of Bladen county, together with all that part of New Hanover county called St Philip's parish, except so much thereof as lieth to the northwestward of the dividing line hereby directed to be run to the lake, and from thence to the bounds of this province, be erected into a distinct county, by the name of Brunswick county.

Part of St
Philip's parish
added to Bladen.

2. *And be it further enacted by the authority aforesaid,* That all that part of St. Philip's parish which lieth to the northwestward of the said line, to the east end of the lake, and from thence to the bounds of the province, be annexed to, and it is hereby declared to be part of Bladen county.

AN ACT TO ANNEX SMITH'S ISLAND, AT THE MOUTH OF CAPE FEAR RIVER, TO BRUNSWICK COUNTY, AND PART OF EAGLE'S ISLAND TO THE COUNTY OF NEW HANOVER.

(Passed in the year 1809.)

Smith's Island
added to Brunswick.

1. *Be it enacted, &c.,* That the said Smith's Island be, and the same is hereby taken from the county of New Hanover, and added to the county of Brunswick, any law, usage or custom to the contrary notwithstanding.

AN ACT TO ESTABLISH THE LINE BETWEEN THE COUNTIES OF BRUNSWICK AND COLUMBUS, AND TO EXTEND THE TIME FOR RUNNING THE LINES ON EAGLE'S ISLAND, BETWEEN BRUNSWICK AND NEW HANOVER COUNTIES.

(Passed in the year 1810.)

1. *Be it enacted, &c.*, That Waccamaw river, from the South Carolina line up to the stake, shall be considered as the true and established boundary between the said counties; and that the county courts of Brunswick and Columbus shall, together or separately, have the power and authority to order the said river, from bank to bank, cleared out, and to enforce the working thereupon on the inhabitants of their own counties, respectively, whenever they, or either of them, think proper; and also that process issued from the courts of justices of either of the said counties, may and shall be served and executed on any person passing along, and within the banks of said river; any law, usage or custom to the contrary notwithstanding.

Boundary between Brunswick and Columbus counties.

(See Bladen, New Hanover, Columbus.)

BUNCOMBE.

AN ACT FORMING THE WESTERN PARTS OF BURKE AND RUTHERFORD COUNTIES INTO A SEPARATE AND DISTINCT COUNTY.

(Passed in the year 1791.)

Whereas the western parts of Burke and Rutherford counties are very inconvenient to the court houses in the said counties, which renders the attendance of jurors and witnesses very burthensome and expensive, and almost impossible in the winter season; and in order to remedy the same,

1. *Be it enacted, &c.* That all that part of the counties of Burke and Rutherford, circumscribed by the following lines, viz. Beginning on the extreme height of the Apalachian mountain, where the southern boundary of this State crosses the same, thence along the extreme height of said mountain to where the road from the head of Catawba river to Swannanoe crosses, then along the main ridge dividing the waters of South Toe from those of Swannanoe unto the Great Black mountain, then along said mountain to the north-east end, then along the main ridge between South Toe and Little Crabtree to the mouth of said Crabtree creek, then down Toe river aforesaid to where the same empties into the Nollichucky river, then down the said river to the extreme height of the Iron mountain and cession line, then along said cession line to the southern boundary, then along the said boundary to the beginning,

Buncombe county erected.

is hereby erected into a separate and distinct county by the name of Buncombe.

AN ACT TO ANNEX PART OF THE COUNTY OF RUTHERFORD TO BUNCOMBE.

(Passed in the year 1794.)

Part of Rutherford county annexed to Buncombe.

1. *Be it enacted, &c.* That from and after the passing of this act, all that part of the county of Rutherford, west of a line beginning at the Sugar Loaf mountain ; from thence a direct line to the Hungary mountain, and along said mountain to Green river, crossing the same ; and from thence a direct line to the South Carolina boundary, and all that part lying to the west of the line aforesaid, shall be annexed to and considered a part of the county of Buncombe.

(See Haywood, Yancey, Burke, Rutherford.)

BURKE.

AN ACT FOR DIVIDING ROWAN COUNTY, AND OTHER PURPOSES THEREIN MENTIONED.

(Passed in the year 1777.)

Whereas the large extent of the county of Rowan, renders it grievous and troublesome to many of the inhabitants thereof, to attend the courts and general elections, and other public meetings appointed therein ;

Rowan county divided.

1. *Be it therefore enacted by the General Assembly of the State of North Carolina, and by the authority of the same,* That from and after the first day of June next, the said county of Rowan be divided by a line beginning at the Catawba river, on the line between Rowan and Tryon counties ; thence running up the meanders of said river to the north end of an island, known by the name of the Three Cornered island ; thence north to the ridge that divides the Yadkin and Catawba waters, then westerly along the ridge to the mountain which divides the eastern and western waters, commonly known by the name of the Blue mountain. And that all that part of the late county of Rowan, which lies to the east of the said dividing line, shall continue and remain a distinct county, by the name of Rowan ; and all that other part of the said county of Rowan which lies west and south of the said dividing line, shall thenceforth be erected into a new and distinct county, by the name of Burke.

AN ACT FOR ESTABLISHING THE DIVIDING LINE BETWEEN THE COUNTIES OF BURKE AND RUTHERFORD.

(Passed in the year 1788.)

Whereas the dividing line between the counties of Burke and Rutherford hath not yet been established, in consequence of which the lands west of the Apalachian mountain have been indiscriminately entered in the respective counties, contrary to the intent and meaning of an act of assembly in that case made and provided :

1. *Be it therefore enacted, &c.*, That the lines as laid out, marked and extended by Joseph M'Dowall, junior, in the year one thousand seven hundred and eightyfive, viz. Beginning at the west point of the line that formerly divided the above said counties, thence west to the Indian boundary as in the act of assembly of the seventeenth of May, one thousand seven hundred and eightythree ; which line is hereby established to be the dividing line between the counties of Burke and Rutherford.

Dividing line between Burke and Rutherford.

AN ACT TO ANNEX PART OF THE COUNTY OF BURKE TO THE COUNTY OF RUTHERFORD.

(Passed in the year 1807.)

Be it enacted, &c. That from and after the passing of this act, the dividing line between the said counties of Burke and Rutherford, shall begin at a white oak tree that stands near the forks of the public road above James Jones's, in the line heretofore run between said counties and the public road that leads up second Broad river, shall be the line between the said counties as far as Joseph Goodbread's, thence a southwest course to the dividing ridge that divides the waters of Cove and Crooked creeks, thence the ridge that divides the waters of Catawba and Broad rivers to the Buncombe county line. And the line as herein mentioned shall be the dividing line between the said counties of Burke and Rutherford.

Part of Burke county added to Rutherford.

AN ACT TO AMEND AN ACT PASSED IN THE YEAR 1807, ENTITLED "AN ACT TO ANNEX PART OF THE COUNTY OF BURKE TO THE COUNTY OF RUTHERFORD."

(Passed in the year 1809.)

1. *Be it enacted, &c.* That a line shall extend from the white oak, mentioned in the above recited act, on the old east and west line to a stake ; thence crossing Little Rock creek, to the south side of the tract whereon widow Smith lives ; thence crossing Big Rock creek, to the north side of Moses Black's buildings ; thence

The line between the counties of Burke and Rutherford.

to a place called the Dye-Stone ; thence to the north side of Levi Trout's buildings ; thence between the plantations of Perminter Morgan and Henry Carter, to the south side of the tract of William Morris, senior ; thence with a spur of the mountain, to the dividing ridge between Crooked creek and Montford's Cove creek, to the Hickory Nut mountain ; thence along the ridge to the Round mountain ; thence due west to the Buncombe line ; and all that part lying northwardly of said line, be, and the same is hereby declared to be in the county of Burke, and the part southwardly thereof shall continue, as heretofore, within the county of Rutherford, any law to the contrary notwithstanding.

County court of either county may order the surveyors to run and mark the said line.

2. *And be it further enacted*, That when it may be deemed expedient to have any part of the line above described run and marked, the county court of either county may order the surveyors of both counties to run and mark the same ; which order it shall be the duty of the said surveyors to obey ; for which they shall be paid by their own counties respectively, by order of the county court.

(See Rowan, Lincoln, Rutherford, Wilkes, Buncombe, Iredell, Ashe, Yancey.)

CABARRUS.

AN ACT FOR DIVIDING THE COUNTY OF MECKLENBURG.

(Passed in the year 1792.)

Division of Mecklenburg county, &c.

1. *Be it enacted, &c.* That from and after the passing of this act, the county of Mecklenburg shall be divided as follows, to wit, beginning at where Iredell line crosses the east branch of Rocky river, then down the said branch to its junction with the west branch which comes from Colonel Osborne's, from thence to where the wagon road crosses Clerk's creek, a little to the west of Captain Pickens's, thence to the barn of Adam Meek, Sen., thence to a cluster of large rocks a little to the southeast of the great road from Colonel Smith's to Charlotte, not far distant from said Smith's, thence to James Stafford's, and from thence to the mouth of Clear creek ; and all that part of the county of Mecklenburg aforesaid, lying west and south of said dividing line, shall continue and remain a distinct county, by the name of Mecklenburg ; and all that part of the said county lying north and east of said line, shall be erected into a new and distinct county, by the name of Cabarrus.

Cabarrus county erected.

Commissioners to run the dividing line, &c.

2. *And be it further enacted.* That James Harris, Joseph Moore Carpenter, William Orr, George Alexander and Zaccheus Wilson, Esquires, or a majority of them, be, and are hereby appointed commissioners to superintend the running the dividing line, and shall cause the same to be entered of record in each of the said counties of Mecklenburg and Cabarrus ; and the said com-

missioners are hereby authorized to employ two surveyors, one of which may be resident in each of the counties aforesaid.

AN ACT TO ANNEX PART OF THE COUNTY OF MECKLENBURG TO THE COUNTY OF CABARRUS.

(Passed in the year 1794.)

Whereas it is represented by petition to this General Assembly, that it will be more convenient, and greatly contribute to the satisfaction of a number of the present inhabitants of the county of Mecklenburg to be added to the county of Cabarrus :

1. *Be it therefore enacted, &c.* That all that part of the county of Mecklenburg, which shall or may be included by a line beginning at Pickens's ford on Clark's creek, running such a course and direction as to include the following persons, and the land whereon they live, to wit, John Wilson, Robert Hope, Zaccheus Wilson, John Sloan, Nathaniel Giles, and Doctor Charles Harriss, from thence to the northeast corner of Adam Meek's dwelling house on the Cabarrus line, so as to include the said Adam Meek in Mecklenburg county, shall be added to the county of Cabarrus, in as full and ample a manner as if the same had been included at the time of the division.

Part of Mecklenburg county annexed to Cabarrus.

(See Mecklenburg.)

CAMDEN.

AN ACT FOR DIVIDING THE COUNTY OF PASQUOTANK, AND ESTABLISHING THAT PART THEREOF ON THE NORTHEAST SIDE OF PASQUOTANK RIVER, A COUNTY, BY THE NAME OF CAMDEN.

(Passed in the year 1777.)

1. Whereas by reason of the width of Pasquotank river, and the difficulty of passing the same, especially in boisterous weather, it is extremely inconvenient for the inhabitants who live on the north east side of said river to attend courts and other public business in the county of Pasquotank : For remedy whereof,

2. *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 all that part of Pasquotank county lying on the northeast side of the said river, and of a line to be run from the head of the said river, a northwest course to the Virginia line, shall be, and is hereby established a county, by the name of Camden.

Pasquotank county divided.

AN ACT FOR EXTENDING THE BOUNDARY LINE BETWEEN THE COUNTIES OF CURRITUCK AND CAMDEN, AND FOR ALLOWING SURVEYORS FURTHER TIME TO MAKE THEIR RETURNS.

(Passed in the year 1784.)

Boundary established between Currituck and Camden.

1. *Be it enacted, &c.* That the following shall hereafter be held and deemed the boundary line between the said counties, that is to say, beginning at the head of North river where the same forks into two runs, thence a direct course to the middle of Lamb's toll road or bridge, thence a direct course to the Virginia line, so as to divide that part of the Great Dismal Swamp, as nearly as may be between the said counties.

(The other sections temporary. See Pasquotank and Currituck.)

CARTERET.

AN ACT FOR THE BETTER SETTLING, REGULATING, AND IMPROVING THE TOWN OF BEAUFORT, IN THE COUNTY OF CARTERET; AND FOR ANNEXING OCCACOCK ISLAND TO THE SAID COUNTY.

(Passed in the year 1770.)

Part of Hatteras banks added to Carteret county.

And whereas part of Hatteras banks, adjoining the bounds of Currituck county, from the place where Hatteras inlet formerly was, and extending westward to Occacock inlet, is not included in any county within this province; by which means the inhabitants thereof are not liable to pay any taxes, or perform any public duties whatsoever: For remedy whereof, *Be it enacted by the authority aforesaid,* That from and after the passing of this act, all that part of the said banks from the low beach, which runs across the same to the sea side, and where Hatteras inlet formerly was, extending westward to Accomack inlet, shall be forever hereafter annexed to the county of Carteret, and shall be held, taken, and deemed as part of the same; and the inhabitants thereof shall be liable and subject to the same duties, taxes, and impositions, and entitled to the same privileges, benefits, and advantages, as the other inhabitants of the said county of Carteret.

(See Jones.)

CASWELL.

AN ACT FOR ESTABLISHING A NEW COUNTY BETWEEN HILLSBOROUGH AND THE VIRGINIA LINE, BY ERECTING THE NORTHERN PART OF ORANGE COUNTY INTO A DISTINCT COUNTY, BY THE NAME OF CASWELL.

(Passed in the year 1777.)

1. Whereas the large extent of the county of Orange renders the attendance of the inhabitants of the northern part to do public duties extremely difficult and expensive : For remedy whereof,

2. *Be it enacted by the General Assembly of the State of North Carolina, and by the authority of the same,* That from and after the first day of June next, the inhabitants of the county of Orange lying to the north of a point twelve miles due north of Hillsborough, and bounded as follows, to wit, beginning at the aforesaid point, running thence due east to Granville county line, thence north along Granville county line to the Virginia line, thence west along the Virginia line to Guilford county line, thence south along Guilford county line to a point due west of the beginning, thence due east to the beginning, be erected into a distinct county by the name of Caswell county.

Orange county divided.

Caswell erected.

(See Guilford, Person and Orange.)

CHATHAM.

AN ACT FOR ESTABLISHING A NEW COUNTY BETWEEN CAMPBLETON AND HILLSBOROUGH, BY TAKING THE SOUTHERN PART OF THE INHABITANTS OF ORANGE COUNTY, AND BY ERECTING THE SAME INTO A DISTINCT COUNTY, BY THE NAME OF CHATHAM COUNTY, AND ST BARTHOLOMEW PARISH.

(Passed in the year 1770.)

1. Whereas the great extent of the county of Orange renders the attendance of the inhabitants of the southern part thereof to do public duties extremely difficult and expensive : For remedy whereof,

2. *Be it enacted by the Governor, Council and Assembly, and by the authority of the same,* That from and after the first day of April next, the inhabitants of the county of Orange, lying to the south of a point sixteen miles due south of Hillsborough, and bounded as follows, to wit, beginning at the aforesaid point, running thence due west to Guilford county line ; thence south along Guilford county line to Cumberland county line ; thence along Cumberland and Wake county lines to a point due east of the be-

Chatham county erected.

ginning ; thence due west to the beginning ; be erected into a distinct county by the name of Chatham county, and St Bartholomew parish.

(See Orange, Guilford, Cumberland and Wake.)

CHOWAN.

AN ACT TO APPOINT COMMISSIONERS TO COMPLETE RUNNING AND MARKING THE DIVIDING LINE BETWEEN CHOWAN AND PERQUIMONS COUNTIES.

(Passed in the year 1819.)

(The 1st section appoints commissioners.)

How to be run. 2. *Be it further enacted*, That they shall commence running at the bridge in the lane called James Hathaway's, Sen., and run a direct course to Caleb Goodwin's bridge in Bear swamp, from thence a direct course to where the Crane pond crosses the Sandy ridge road, thence up the Sandy ridge road to where the Gates county line crosses the said road.

Surveys filed. 3. *Be it further enacted*, That the said commissioners shall cause to be made correct copies of their survey ; one of which shall be filed in the secretary's office, and one in each of the clerk's offices of the court of pleas and quarter sessions in the counties of Chowan and Perquimons.

AN ACT TO APPOINT COMMISSIONERS TO LAY OFF AND ESTABLISH THE DIVIDING LINE BETWEEN THE COUNTIES OF CHOWAN AND GATES.

(Passed in the year 1820.)

Whereas the dividing line between the counties of Chowan and Gates has not heretofore been sufficiently described, either by actual survey or by known and fixed boundaries, whereby it becomes expedient, in order to prevent disputes between the inhabitants of said counties, that the said dividing line should be more accurately ascertained :

Commissioners to mark the line. 1. *Be it enacted, &c.*, That Ephraim Elliot, of the county of Chowan, and Joseph Riddick, Esq., of the county of Gates, be, and they are hereby appointed commissioners, with full power and authority to lay off, extend and mark the line between the said counties, due regard being had to the former reputed line.

Their duty. 2. *Be it further enacted*, That the said commissioners shall appoint such surveyor, chain carriers and other attendants, as shall be necessary for the marking, extending and establishing the said line, and shall make or cause to be made a return of their proceedings to each of the courts of pleas and quarter sessions of the said counties, to be deposited and kept among the records thereof,

and the said line, when so extended and laid off, shall forever thereafter be established and confirmed as the dividing line between the said counties.

(See Bertie, Tyrrell, Hertford, Gates and Perquimous.)

COLUMBUS.

AN ACT ERECTING THE WEST PART OF BUNCOMBE INTO A SEPARATE AND DISTINCT COUNTY, AND ALSO PART OF BRUNSWICK AND A PART OF BLADEN COUNTIES INTO A SEPARATE AND DISTINCT COUNTY.

(Passed in the year 1808.)

And whereas the river Waccamaw renders it frequently impossible to pass to the court house of Brunswick county without imminent danger,

8. *Be it further enacted*, That all that part of Bladen county and Brunswick, beginning in the Waccamaw river, where the dividing line between North and South Carolina crosses the same, then up said river to the White Marsh branch, then up the same to the western prong and to the head of it, then a direct line to the Rough Horn branch or swamp; then down Rough Horn to Drowning creek, thence down the same to the State line, thence with the same to the beginning, shall be and is hereby established into a separate and distinct county by the name of Columbus.

Boundary of the new county of Columbus.

(The other sections of this act relate to Haywood county or are temporary in their nature.)

AN ACT TO ANNEX PART OF BLADEN TO THE COUNTY OF COLUMBUS.

(Passed in the year 1809.)

1. *Be it enacted, &c.*, That from and after the passing of this act, the boundary line between the counties of Bladen and Columbus, shall begin in the Brunswick line, two miles to the east of the Waccamaw lake, and run thence a direct line to Slade swamp, so as to include Henry Swindle's plantation, thence down Slade swamp to the Brown Marsh swamp, thence down the same to the Western prong, thence up the same to the mouth of Green's mill branch, then up the said branch to the head, and then a direct line to the mouth of the Horsepen branch at the Big swamp, thence down the Big swamp and Drowning creek to the Columbus line. And the boundary as herein mentioned and described, shall be the dividing line between the said counties of Bladen and Columbus.

The boundary line between Bladen and Columbus.

(The other sections temporary.)

AN ACT TO ANNEX PART OF BRUNSWICK COUNTY TO THE COUNTY OF COLUMBUS.

(Passed in the year 1811.)

Part of Brunswick added to Columbus.

Be it enacted, &c., That from and after the passing of this act, all that part of Brunswick county bounded as follows, to wit: beginning at Waccamaw river, at the mouth of Juniper creek, on the Columbus line, and running up Juniper creek to a swamp called Big swamp, and up the Big swamp to a branch called Clear branch, and up the Clear branch to the head; thence a direct course to the Waccamaw river, at the mouth of a large creek, and thence join the Columbus line or river to the beginning, be, and the same is hereby annexed to the county of Columbus.

AN ACT TO ANNEX PART OF BLADEN COUNTY TO THE COUNTY OF COLUMBUS.

(Passed in the year 1821.)

1. *Be it enacted, &c.*, That all that part of the county of Bladen which lies southwest of a line hereafter to be run, beginning on the Brunswick line where the lake road leading to Wilmington crosses, thence on the north side of said road to the drain of Buckhead bay, thence a direct line to where the road leading from Manly Westbrook's to Gabriel Holmes's crosses Saspan drain, thence a direct line to where the line that divides Bladen and Columbus counties is supposed to run, thence along said line to Samuel Swindol's plantation, and thence on the southwest side of said plantation to the mouth of Slade swamp, be, and the same is hereby annexed to, and shall hereafter form a part of Columbus county; and all that part of the county lying northeast of the said line, shall form a part of Bladen county.

Commissioners to run line.

2. *Be it enacted*, That David Gillaspie and Samuel B. Andrews, of Bladen county, and William Gore, Sen., and Luke R. Simmons, of Columbus county, be, and they are hereby appointed commissioners to run and mark the line aforesaid; which line, when so marked, shall be, and is hereby established as the dividing line between the said counties of Bladen and Columbus; and that all citizens living southwest of the same shall hereafter be considered and deemed citizens of the said county of Columbus.

(The third section temporary.)

AN ACT APPOINTING COMMISSIONERS TO RUN AND ESTABLISH THE BOUNDARY LINE BETWEEN THE COUNTIES OF BLADEN AND COLUMBUS.

(Passed in the year 1834.)

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

That Josiah Nyc and Marmaduke Powell, of the county of Columbus, and Daniel Shipman and Shadrack Wooten, of Bladen county, be and they are hereby appointed commissioners, with power to employ such artist, chain carriers and attendants as they may deem necessary, to enable them to run, ascertain and mark the boundary line between the counties of Bladen and Columbus, agreeably to the several acts of eighteen hundred and nine, and eighteen hundred and twentyone, establishing the boundary line between said counties; and the line after being so run and marked, shall be, and the same is hereby declared to be, the dividing line between the said counties; and the said commissioners, within six months after running the said line, shall make out two plats thereof, and return one to each of the county courts of Bladen and Columbus.

(The second section temporary.)

(See Brunswick and Bladen.)

CRAVEN.

AN ACT TO ANNEX PART OF THE COUNTY OF BEAUFORT TO CRAVEN COUNTY.

(Passed in the year 1811.)

Whereas it is represented to this General Assembly, that it would be of considerable utility to a number of persons to annex that part of Beaufort county that lies between Jones's and Bay rivers, to the county of Craven:

1. *Be it enacted, &c.*, That from and after the passing of this act, all that part of Beaufort county that lies within the following bounds, viz. beginning at the head of Jones's bay, and running a direct line to Bay river bridge, near Palmer's cabins; thence down the meanders of said Bay river to Jones's bay, thence with said bay to the beginning.

Part of Beaufort annexed to Craven county.

2. *And be it further enacted*, That all persons living within the before mentioned bounds, shall be liable to do all public duties in Craven county, in all respects as they were compelled to do in Beaufort county, anything to the contrary notwithstanding.

Duty of the inhabitants.

(See Johnston, Beaufort, Lenoir, Greene, Pitt, Jones.)

CUMBERLAND.

AN ACT TO RE-ESTABLISH THE COUNTIES OF ROWAN, CUMBERLAND AND ORANGE.

(Passed in the year 1756.)

1. Whereas an act for erecting the upper part of Anson county into a county and parish, by the name of Rowan county, and St Luke's parish, and for appointing a place for holding a court in the said county ; an act, entitled, An act for erecting the upper part of Bladen county into a county and parish, by the name of Cumberland county, and St David's parish ; and an act for dividing part of Granville, Johnston and Bladen counties into a county and parish, by the name of Orange county, and the parish of St Matthew, and for appointing vestrymen for the said parish, and other purposes therein mentioned, have been repealed by an act, entitled, An act for re-establishing several counties and towns, and for other purposes : And whereas his majesty has been graciously pleased, by his royal instructions, to authorize his excellency the governor to give his assent to an act to re-establish the counties aforesaid :

Counties re-established.

2. *Be it therefore enacted by the Governor, Council and Assembly, and by the authority of the same,* That the several divisions or districts of this province which have heretofore belonged to the respective counties aforesaid, before the repeal of the before recited acts of assembly, shall, and are hereby declared to be re-established into counties, by the respective names by which each county or district, at the time of repealing of the aforesaid acts, was known and denominated ; and each of the said counties shall be limited and bounded according to the bounds and limits heretofore known and reputed to be the bounds and limits thereof.

(The third section temporary.)

AN ACT TO ADD PART OF BLADEN COUNTY TO CUMBERLAND.

(Passed in the year 1789.)

Whereas it hath been represented and made appear to this General Assembly, that the upper part of Bladen county is contiguous to the county court of Cumberland and superior court of Fayetteville district, and very remote from the court house of the said county of Bladen and the district court thereof, to the great injury and inconvenience of the inhabitants of the upper part of the said county of Bladen : For remedy whereof,

Part of Bladen added to Cumberland.

1. *Be it enacted, &c.,* That all that part of Bladen county, lying to the northwest of a line beginning directly opposite to the mouth of Willis's creek, on the northeast side of Cape Fear river, thence

a direct course to John Pharis's, on South river, so as to include said Pharis's in Cumberland county, thence the same direction until it strikes the Sampson line, then beginning at the said first station opposite to said Willis's creek, and running south seventyfive west to Robeson county line, be and is hereby annexed to the county of Cumberland, and from and after the passing of this act shall be and remain a part thereof.

AN ACT TO ANNEX PART OF ROBESON TO CUMBERLAND COUNTY.

(Passed in the year 1791.)

Whereas the annexing part of the county of Robeson to Cumberland, would tend to the ease and convenience of those who inhabit the same :

1. *Be it therefore enacted, &c.*, That from and after the passing of this act, all that part of Robeson county included in the following bounds, to wit : beginning at the mouth of the Colecamp branch, thence up said branch to the main road from Lumberton to Fayetteville, thence a direct line to the bridge across Great Rockfish, below Leggitt's plantation, thence up said Rockfish to the line of Cumberland county, be and the same is hereby annexed to, and shall be and remain a part of, the county of Cumberland.

Part of Robeson added to Cumberland county.

(See Bladen, Wake, Moore, Robeson.)

CURRITUCK.

(See Tyrrell, Carteret, Camden, Hyde.)

DAVIDSON.

AN ACT FOR THE DIVISION OF ROWAN COUNTY.

(Passed in the year 1822.)

1. *Be it enacted, &c.*, That all that part of the county of Rowan lying north of the following line, to wit : beginning on the east bank of the Yadkin river, where the same is crossed by the Surry line ; thence down the said river to the ferry of Thomas P. Ives ; thence a straight line to a point at the end of ten miles, in a line running north, fortyfive degrees east from the court house, in Salisbury ; thence to the mouth of Abbot's creek ; and thence, down the river, to the Montgomery line, be, and the same is hereby erected into a separate and distinct county, by the name of David-

County of Davidson erect- ed.

son, with all the rights, privileges and immunities of the other counties in this State.

AN ACT TO AMEND AN ACT PASSED IN THE YEAR EIGHTEEN HUNDRED AND TWENTYTWO, ENTITLED AN ACT FOR THE DIVISION OF ROWAN COUNTY.

(Passed in the year 1834.)

Be 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 dividing line between the counties of Rowan and Davidson, beginning on the east bank of the Yadkin river, where the same is crossed by the Surry line, run as described in said act, to where it intersects Potts' creek, thence down said creek to the Yadkin river, thence down said river to the Montgomery line.

AN ACT TO AMEND AN ACT, PASSED IN THE YEAR ONE THOUSAND EIGHT HUNDRED AND TWENTYTWO. ENTITLED AN ACT FOR THE DIVISION OF ROWAN COUNTY.

(Passed in the year 1835.)

Be 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.

(The second and third sections temporary.)

(See Rowan, Montgomery, Surry.)

DAVIE.

AN ACT TO LAY OFF AND ESTABLISH A COUNTY BY THE NAME OF DAVIE.

(Passed at the session of 1836.)

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That a county shall be, and the same is laid off and established, in the territory now comprehended in the limits of Rowan county, north of the South Yadkin river, beginning at the junction of the North and South Yadkin rivers; thence, up the South Yadkin river, to the Iredell county line; and all that part of the present county of Rowan, lying and being north of said river, shall hereafter constitute a separate and distinct county, to be called and

Boundaries and name of county.

known by the name of Davie, in honor of the revolutionary patriot, William R. Davie ; and it shall be, and is hereby, invested with all the rights, privileges and immunities of the other counties in this State, except as is hereafter provided.

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

Official powers of certain officers continued.

(See Rowan.)

DUPLIN.

AN ACT FOR ERECTING THE UPPER PART OF NEW HANOVER COUNTY INTO A COUNTY AND PARISH, BY THE NAME OF DUPLIN COUNTY AND ST GABRIEL PARISH; AND FOR APPOINTING A PLACE FOR BUILDING A COURT HOUSE, PRISON AND STOCKS IN SAID COUNTY.

(Passed in the year 1749.)

1. We pray it may be enacted, *And be it enacted by His Excellency Gabriel Johnston, Esquire, Governor, by and with the advice and consent of His Majesty's Council, and the General Assembly of this province, and by the authority of the same*, That New Hanover county be divided by a line, beginning at the mouth of Rockfish creek, on the northeast river of Cape Fear, running east to Onslow county, and westward, by a straight line, from the mouth of the said creek, to the upper forks of Black river, where Cohecry and the Six-Runs meet, thence up Cohecry to the head thereof ; and that the upper part of the said county be erected into a county, by the name of Duplin county, and St Gabriel parish : And that the said county and parish shall enjoy all the privileges and advantages that any other county and parish now holds or enjoys.

Division of the county.

Duplin county erected.

AN ACT FOR ASCERTAINING THE BOUNDARY LINE BETWEEN THE COUNTIES OF NEW HANOVER AND DUPLIN.

(Passed in the year 1766.)

1. Whereas disputes daily arise between the inhabitants of New Hanover and Duplin, by reason of the boundary line not being sufficiently ascertained :

2. *Be it therefore enacted by the Governor, Council and Assembly, and by the authority of the same*, That the Honorable John Sampson, Esquire, John Ashe, Felix Kennon, and Alexander Lillington, Esquires, are hereby appointed commissioners for run-

Commissioners appointed for running the dividing line between Duplin and New Hanover.

ning out the dividing line between the said counties of Duplin and New Hanover; which said commissioners, or any three of them, shall meet on some time within six months after the passing of this act, and shall run and lay off the boundaries between the said counties, in the following manner, to wit: That Rockfish creek shall be the boundary, from the mouth thereof to where Doctor's creek branches from the same; then up Doctor's creek, one mile above the house of Mr George Maires; thence running a direct line to the corner made by Arthur M'Coy, on South river; and the said line when run, shall forever after be deemed the boundary line between the said counties of New Hanover and Duplin.

AN ACT TO APPOINT COMMISSIONERS TO RUN AND ESTABLISH THE DIVIDING LINE BETWEEN THE COUNTIES OF DUPLIN AND ONSLOW.

(Passed in the year 1819.)

Whereas considerable difficulty hath arisen with the wardens of the poor for the counties of Duplin and Onslow, respecting the maintenance of certain parishioners belonging to said counties, in consequence of the dividing line between said counties never having been ascertained: To remedy which,

Commissioners
for running the
line.

1. *Be it enacted, &c.* That Hugh Maxwell and John Farrier, Esquires, of the county of Duplin, and Jason Gregory and Averett Simmons, Esquires, of the county of Onslow, be, and are hereby appointed commissioners to run and establish the dividing line between the counties of Duplin and Onslow, as soon as may be practicable after the passing of this act.

Report filed.

2. *And be it further enacted,* That the said commissioners shall make a report of their proceedings to their respective county courts of Duplin and Onslow aforesaid, which report shall be filed in the clerk's office of said counties.

Line establish-
ed.

3. *And be it further enacted,* That the said line so established by the commissioners aforesaid, shall be the permanent line between the said counties of Duplin and Onslow, and shall govern all controversies that shall or may have arisen in either county concerning said line.

AN ACT TO APPOINT COMMISSIONERS TO RUN AND ESTABLISH THE DIVIDING LINE BETWEEN THE COUNTIES OF DUPLIN AND LENOIR.

(Passed in the year 1819.)

Commissioners
for running the
line.

Be it enacted, &c., That Daniel Glisson and Edward Albertson, of Duplin county, and Joel Hines and Job Leary, of Lenoir county, be, and they are hereby appointed commissioners for the purpose of running and establishing the dividing line between the counties aforesaid, and they are also authorized to appoint one surveyor

from each of the aforesaid counties, with such number of markers ^{Their duty.} and chain carriers as they may deem necessary, and when the said commissioners shall have completed the same in the manner which a majority thereof may prescribe, two fair plats or representations of the said dividing line shall be by them made out, and returned to the clerk's office of the respective counties aforesaid, and the same shall be entered on the records thereof; and the said line so run and established, shall forever thereafter be considered the permanent dividing line between the said counties.

AN ACT TO PROVIDE FOR RUNNING AND ESTABLISHING THE DIVIDING LINE BETWEEN THE COUNTIES OF WAYNE AND DUPLIN.

(Passed in the year 1833.)

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That Jesse Oates and William Ashford, commissioners from the county of Sampson, and Alexander Moseley and Nathan B. Whitfield, commissioners from the county of Lenoir, one of whom shall be a surveyor, be, and they are hereby authorized and empowered to meet at or near a pine stump near the house of John Elliott, the corner of the county of Wayne, Sampson and Duplin, which is known as a pine stump, within six months after the passage of this act; and after having been sworn by some justice of the peace of the county of Wayne or Duplin, shall proceed to run, mark and establish the dividing line between said counties, beginning at the pine stump, according to the description laid down in the several acts of assembly dividing counties and forming the counties of Wayne and Duplin.

2. *Be it further enacted,* That the above named commissioners shall and may have full power and authority to run, and mark, and establish any dividing line between the two counties, that the people most immediately concerned may agree upon among themselves, that the commissioners may deem just or equitable; and should the commissioners deem it best, either before or after commencing the running, to call in an umpire, they shall have full power to do so, provided the selection shall not be made from Wayne or Duplin county; and such person by them selected shall take the same oath of the commissioners herein named, and possess the same powers in all respects whatever; and should any vacancy occur in said board of commissioners, by death or any other cause, the remaining commissioners shall fill the same.

3. *Be it further enacted,* That the line run and marked by the before named commissioners, shall be deemed and held in law to be the dividing line between the county of Wayne and the county of Duplin; and within a reasonable time after such survey shall have been completed, the commissioners shall make out two fair plats of the said line, and return one of them to the clerk of the

county court of Wayne, and the other to the county court clerk of Duplin, and the clerks shall file said plat in their offices.

(The fourth section relates to the compensation of the commissioners.)

5. *Be it further enacted*, That as soon as the plat and survey of the line run by the commissioners under this act shall be returned to the clerks of the county courts of Wayne and Duplin, all laws and clauses of laws heretofore passed, coming within the purview and meaning of this act, shall be repealed.

(See New Hanover, Johnston, Sampson, Onslow, Lenoir, Wayne.)

EDGCOMB.

AN ACT TO CONFIRM AND ERECT THAT PART OF THE PROVINCE OF NORTH CAROLINA CALLED EDGCOMB COUNTY, INTO A COUNTY, BY THE NAME OF EDGCOMB COUNTY, AND FOR ESTABLISHING THE SAID COUNTY A PARISH; AND FOR ASCERTAINING THE BOUNDARY LINE BETWEEN THE NORTHWEST AND SOCIETY PARISHES, IN BERTIE COUNTY.

(Passed in the year 1741.)

1. We pray that it may be enacted, *And be it enacted by His Excellency Gabriel Johnston, Esq., Governor, by and with the advice and consent of His Majesty's Council, and General Assembly of this province, and it is hereby enacted by the authority of the same*, That that part of this province now called Edgcomb county, be, and is hereby established a county, by the name of Edgcomb county, the bounds whereof shall be as follows: Beginning on Roanoak river, at Jenkin Henry's upper corner tree, from thence, a straight course to the mouth of Cheek's mill creek, on Tar river; and from the south side of the said river, opposite to the said creek, a straight line unto the middle grounds, between Tar and Neus rivers; which shall be the dividing line between Beaufort, and Edgcomb, and Craven counties; and from thence, up as high as may be, keeping the middle between the said two rivers, which shall be the dividing line between the counties of Craven, and Edgcomb, and Beaufort; and the county courts of Craven and Edgcomb, are hereby empowered, each of them, for their respective counties, to appoint two commissioners to run out the bounds or dividing line between Craven and Edgcomb; which line so run out as abovesaid, and marked, shall be the dividing line between the said counties.

Edgcomb established.

Its bounds.

Commissioners to lay out the said bounds.

AN ACT FOR ANNEXING PART OF HALIFAX COUNTY TO EDGCOMB,
AND OTHER PURPOSES.

(Passed in the year 1779.)

1. Whereas the lower corner of Halifax county that lies next to Fishing creek, is much more convenient to the public buildings of Edgcomb county than to those of Halifax : For remedy whereof,

2. *Be it enacted*, That from and after the passing of this act, County lines. all that part of Halifax county lying below a line beginning at John Wall's and Drewry Croker's dividing corner tree on Fishing creek, then along said Wall's line to the back corner, thence a direct line as near as may be to the fork of the Marsh swamp at or near Matthew Packer's, then down said swamp to Deep creek, and across said creek to the mouth of the Indian branch, then the various courses of said branch to the Martin county line, shall be held and deemed part of the county of Edgcomb, and the inhabitants thereof shall be under the same rules and restrictions, as the other inhabitants of Edgcomb are.

(The third and fourth sections temporary.)

5. And whereas that part of the dividing line between the counties of Edgcomb and Pitt, on the north side of Tar river (as by law directed,) has never been run ;

6. *Be it therefore enacted*, That Jacob Little, Amos Adkinson County lines. and Charles Walderson are appointed commissioners, and they are hereby empowered and directed to run said line, beginning on Martin county line as near as they conveniently can in a direct course between the dwelling house of William Jackson and the mouth of Cheeks run on Tar river thence a straight course to the mouth of said Cheeks run, on said river ; which line when run by the commissioners or a majority of them, agreeable to the directions of this act, shall be by them entered on record in each of the counties of Edgcomb and Pitt.

AN ACT FOR EXTENDING THE DIVIDING LINE BETWEEN THE
COUNTIES OF EDGCOMB AND MARTIN, AND BETWEEN THE COUN-
TIES OF MARTIN AND PITT.

(Passed in the year 1784.)

1. *Be it enacted, &c.*, That Isaac Sessums, Joseph Hart, Nathan Mayo, Joseph Cooper, and Solomon Cherry, commissioners, or a majority of them, be and they are hereby authorized and empowered, as soon as may be after the passing of this act, to extend the dividing line between the counties aforesaid, beginning in the old line that formerly divided Edgcomb and Halifax, at or near Benjamin Cotton's, running thence a direct course to the line that divides Martin and Pitt counties at or near Charles Council's.

Dividing line between Edgcomb and Martin, and between Martin and Pitt.

AN ACT FOR ADDING PART OF THE COUNTY OF MARTIN TO EDG-COMB.

(Passed in the year 1793.)

Whereas adding the southwest corner of Martin county to Edgcomb will greatly relieve the inhabitants thereof :

Part of Martin added to Edgcomb county.

1. *Be it therefore enacted, &c.*, That all that part of the county of Martin southwest of the line beginning where the line dividing Edgcomb and Halifax strikes Martin, running thence a straight course to the Wolf pond near the Indian branch, thence to the Great Cypress pond on William's Thicket, from thence to Thomas Taylor's as straight as may be so as to include Micajah May's, from thence due south to Pitt county line, be added to the county of Edgcomb ; and that from and after the passing this act, all that part of the county of Martin within the bounds above prescribed be annexed to and made part of the county of Edgcomb, and the inhabitants thereof shall be subject and liable to the same rules, orders, taxes and privileges, as any others the inhabitants of the county of Edgcomb.

Commissioners appointed to run the line.

2. *And be it further enacted*, That George Cockburn, John W. Mayo, William Hyman, John Burnet and Robert Sherrard, be appointed as commissioners to lay off and divide the same as nearly within the limits above mentioned as the nature of the case will admit ; which said line, when run by the commissioners aforesaid, shall be by them entered on record in each of the said counties of Martin and Edgcomb.

AN ACT TO ANNEX PART OF PITT COUNTY TO EDGCOMB.

(Passed in the year 1801.)

Part of Pitt county added to Edgcomb.

1. *Be it enacted, &c.*, That from and after the passing of this act, all that part of Pitt county, bounded as follows, shall be added to the county of Edgcomb : beginning where Edgcomb county line crosses Coneto creek, near Samuel Crisp's ; then down said creek to Christopher Harrod's plantation, then nearly west to Edgcomb county line, so as to include James Summerlin ; and all that part north of said line shall hereafter be part of the county of Edgcomb, and under the same rules and regulations as the said county of Edgcomb is or may be.

Commissioners to run the lines.

2. *And be it further enacted*, That William Wilkinson, Allen Atkerson, John Staniel, Nathan Staniel, James Averitt, William Cherry, Sen.; they, or a majority of them, are authorized and required to run and mark the lines agreeably to the aforesaid act, and make return of their proceedings to the next courts to be held for the counties of Pitt and Edgcomb, to be recorded under the directions of said courts ; any law to the contrary notwithstanding.

(See Beaufort, Granville, Halifax, Nash, Pitt, Martin and Tyrrell.)

FRANKLIN.

AN ACT FOR ERECTING PART OF ST PHILIP'S PARISH, IN NEW HANOVER COUNTY, AND THE LOWER PART OF BLADEN COUNTY, INTO A SEPARATE COUNTY, BY THE NAME OF BRUNSWICK COUNTY; AND FOR DIVIDING THE COUNTY OF GRANVILLE, AND ERECTING THAT PART THEREOF CALLED ST JOHN'S PARISH, INTO A SEPARATE AND DISTINCT COUNTY, BY THE NAME OF BUTE COUNTY.

(Passed in the year 1764)

(The two first sections relate only to Brunswick and Bladen.)

3. And whereas by reason of the large extent of the county of Granville, it is greatly inconvenient for the inhabitants to attend the courts of the said county, general musters, and other public duties by law required : *Be it enacted by the authority aforesaid,* That from and after the tenth day of June next, the said county of Granville shall be divided into two distinct counties ; and that all that part of the said county which is now called or known by the name of the parish of Granville, from and after the said tenth day of June, shall be a distinct county, and remain to be called Granville county ; and that all that part of the said county called and known by the name of St John's parish, shall, after the said tenth day of June, be one other distinct county, called by the name of Bute county.

Bute county erected.
[Bute county divided into Franklin and Warren counties, 1779, c. 46.]

AN ACT FOR ANNEXING PART OF NORTHAMPTON COUNTY TO THE COUNTY OF BUTE.

(Passed in the year 1767.)

1. Whereas the inhabitants of the upper or westernmost corner of Northampton county, labor under great inconveniences in attending the courts, and other public meetings of the said county, at the court house thereof ; and being more convenient for those purposes to the county of Bute, are desirous of being annexed thereto :

2. *Be it enacted by the Governor, Council and Assembly,* and by the authority of the same, That Thomas Eaton, Willie Jones, and Benjamin Person, Esquires, be, and they are hereby appointed commissioners : and they, or a majority of them, are required and directed, within three months after the passing of this act, to run and mark (or cause the same to be done) a line from Roanoke river bank, opposite the mouth of Stonehouse creek, a due north course to the dividing line between this province and the colony of Virginia : and all that part bounded to the eastward, by the line above directed to be marked, and to the northward by the Virginia line, to where it crosses Roanoke river, shall be, and is hereby annexed to, and made part of the county of

County divided.

Bute ; and the inhabitants thereof shall be subject and liable to the same rules, orders, taxes, and privileges, as any other of the inhabitants of the said county of Bute.

AN ACT FOR DIVIDING BUTE COUNTY INTO TWO DISTINCT COUNTIES, AND FOR OTHER PURPOSES THEREIN MENTIONED.

(Passed in the year 1779.)

1. Whereas the large extent of the county of Bute renders the attendance of the inhabitants on the extreme parts of the said county to do public duties extremely difficult and expensive : For remedy whereof,

Bute divided.

2. *Be it enacted, &c.*, That from and after the passing of this act, the county of Bute shall be divided into two distinct counties, by a direct line from the Granville line to Halifax or Nash county line, as the case may be, leaving in each part or division an equal quantity of acres as near as can be ascertained.

3. And in order that the same may be ascertained with as much precision as possible, *Be it further enacted*, That Julius Nichols, William Duke, John Falcon, John Norwood, and Matthew Thomas, or a majority of them, be, and they are hereby appointed commissioners, to measure the lines of said county on every side, and to run the dividing line so as to make each respective division as convenient to the respective persons residing therein as possible, which said line when run by the commissioners, or a majority of them, shall be entered on the record of each county ; and all that part or division which lies north of said line, and adjacent to Virginia, shall be a distinct county, by the name of Warren ; and all that part or division that lies south of said line shall be a distinct county, by the name of Franklin.

Warren and
Franklin coun-
ties erected.

AN ACT FOR ADDING PART OF WAKE COUNTY TO FRANKLIN COUNTY.

(Passed in the year 1786.)

Whereas it is represented to this General Assembly that it would greatly add to the ease and convenience of a number of the inhabitants of Wake county, if that part of the said county lying east of Mockison swamp, was added to and made a part of Franklin county ;

1. *Be it therefore enacted, &c.*, That all that part of the county of Wake lying east of Mockison swamp, and a line running from the head of the westernmost prong thereof a north course to the Franklin line, be, and the same is hereby added to and made a part of Franklin county.

Part of Wake
added to
Franklin.

GATES.

AN ACT FOR DIVIDING HERTFORD COUNTY, AND OTHER PURPOSES
THEREIN MENTIONED.

(Passed in the year 1779.)

1. Whereas by reason of the width of Chowan river, and the difficulty of passing the same, especially in boisterous weather, it is extremely inconvenient for the inhabitants of the northeast side of the said river to attend courts, and other public business, as also for the ease and convenience of the inhabitants on the north ends of Chowan and Perquimans counties, it is necessary that the same be divided into a separate and distinct county :

2. *Be it therefore enacted, &c.*, That all that part of Hertford county ^{Gates erected.} that lies on the north side of Chowan river, and all that part of Chowan and Perquimans counties that lies on the north side of Catharine and Warwick creeks, and bounded as follows, that is to say, beginning at the Virginia line, on Chowan river ; thence down the said river to the mouth of Catharine creek ; thence up the said creek to the mouth of Warwick creek ; thence up said creek to the head ; thence a direct line to the head of the Indian branch, in Perquimans county ; thence down said branch to the Great Dismal swamp ; thence a northeast course to the Virginia line ; thence westwardly along said line to the beginning ; and all that part of Hertford, Chowan and Perquimans counties, included in said lines, shall be, and is hereby established a county, by the name of Gates.

AN ACT TO APPOINT COMMISSIONERS TO LAY OFF AND ESTABLISH
THE DIVIDING LINE BETWEEN THE COUNTIES OF CHOWAN AND
GATES.

(Passed in the year 1820.)

Whereas the dividing line between the counties of Chowan and Gates has not heretofore been sufficiently described, either by actual survey or by known and fixed boundaries, whereby it becomes expedient, in order to prevent disputes between the inhabitants of said counties, that the said dividing line should be more accurately ascertained.

1. *Be it enacted, &c.*, That Ephraim Elliot, of the county of ^{Commissioners} Chowan, and Joseph Riddick, Esquire, of the county of Gates, ^{to mark the} be, and they are hereby appointed commissioners, with full power and authority to lay off, extend and mark the line between the said counties, due regard being had to the former reputed line.

2. *Be it further enacted*, That the said commissioners shall ap- ^{Their duty.} point such surveyor, chain carriers and other attendants as shall be necessary for the marking, extending and establishing the said line,

and shall make or cause to be made a return of their proceedings to each of the courts of pleas and quarter sessions of the said counties, to be deposited and kept among the records thereof, and the said line, when so extended and laid off, shall forever thereafter be established and confirmed as the dividing line between the said counties.

(See Hertford, Chowan and Perquimons.)

GRANVILLE.

AN ACT FOR DIVIDING EDGCOMB COUNTY AND PARISH, AND FOR ERECTING THE UPPER PART THEREOF INTO A COUNTY AND PARISH BY THE NAME OF GRANVILLE COUNTY, AND ST JOHN'S PARISH; AND FOR APPOINTING VESTRYMEN OF THE SAID PARISH.

(Passed in the year 1746.)

1. We pray it may be enacted, *And be it enacted by His Excellency Gabriel Johnston, Esq., Governor, by and with the advice and consent of his Majesty's Council, and General Assembly of this province, and by the authority of the same,* That Edgcomb county and parish be divided by a line, beginning at the mouth of Stonehouse creek, on Roanoak river, to the mouth of Cypress swamp, on Tar river, and from thence across the river, in a direct course, to the Middle grounds between Tar river and Neus river, being the dividing line between Craven and Edgcomb counties; and that the upper part of the said county and parish, as divided by the line that shall be agreed on by the commissioners hereafter named, be erected into a county, by the name of Granville county and St John's parish: And that the said county and parish shall enjoy as many privileges as any other county or parish in this province holds and enjoys, save only that the said county shall send but two representatives to sit in General Assembly.

(See Orange, Franklin and Warren.)

GREENE.

AN ACT FOR DIVIDING THE COUNTY OF JOHNSTON, AND OTHER PURPOSES.

(Passed in the year 1758.)

1. Whereas the large extent of the county of Johnston, renders it grievous and burthensome to many of the inhabitants thereof to attend the courts and general musters, and other public meetings therein:

County divided, and the upper part erected into a distinct county and parish, by the name of Granville.

2. *Be it enacted by the Governor, Council and Assembly, and by* ^{County divid-}
the authority of the same, That from and after the tenth day of ^{ed.}
 April next, the said county be divided by the dividing line between
 the parish of St Patrick and the parish of St Stephen ; and that
 that part of the said county which is now the parish of St Stephen,
 remain, be called and known by the name of Johnston ; and that ^{Dobbs county}
 that part of the said county which is the parish of St Patrick, be ^{erected.}
 thenceforth erected into a distinct county, and called and known
 by the name of Dobbs.

AN ACT DIRECTING THE BOUNDARY LINE BETWEEN THE COUN-
 TIES OF DOBBS AND PITT, AND APPOINTING COMMISSIONERS TO
 SEE THE SAME RUN.

(Passed in the year 1764.)

1. Whereas by the act of assembly, entitled, An act for erecting
 the upper part of Beaufort county into a county and parish, by the
 name of Pitt county and St. Michael's parish ; and for the adjourn-
 ing the court from the court house on the land of Thomas Bonner,
 to the court house in Bathtown, and other purposes therein men-
 tioned, no commissioners were appointed by the said act for run-
 ning the boundary line between the counties of Dobbs and Pitt ;
 by reason whereof the line has never been run, and the inhabitants
 within the disputed bounds refuse to give in a list of their taxables
 or pay their taxes in either of the said counties : For remedy
 whereof,

2. *Be it enacted by the Governor, Council and Assembly, and* ^{Commissioners}
by the authority of the same, That Mr Richard Caswell, Mr ^{for running the}
 John Simpson, and Mr William Wilson, be appointed commis- ^{dividing line.}
 sioners, and they are hereby empowered and required to run the
 said dividing line between the counties of Dobbs and Pitt ; from
 Blount's ford on Little Cotentney creek, to Luke White's, then
 up the Middle swamp to William Wilson's, and from thence to
 the nearest part of Edgcomb county ; which said lines, when run
 by the commissioners aforesaid, or any two of them, shall be by
 them entered on record in the court of each of the said counties
 of Dobbs and Pitt, and shall thereafter be deemed and taken to
 be the dividing lines between the said counties.

AN ACT FOR ANNEXING PART OF CRAVEN COUNTY TO DOBBS
 COUNTY.

(Passed in the year 1764)

1. Whereas the inhabitants residing in that part of Craven
 county, lying on the southernmost side of the Southwest creek,
 and the upper branches of Trent river, labor under great hard-
 ships, fatigue and inconveniences, in attending the inferior courts,
 and other public meetings in the said county, at Newbern, where the

same are generally held and called ; and as the said inhabitants are more contiguous to Dobbs county, where they can with greater ease and convenience attend, and are desirous of being annexed thereto :

Commissioners
for running the
line.

2. *Be it enacted by the Governor, Council and Assembly, and by the authority of the same,* That Mr Joseph Leech, Mr Richard Caswell, and Mr Francis Mackilwean, be, and they are hereby appointed commissioners ; and they, or a majority of them, are required and directed, within three months after the passing of this act, to run and mark, or cause to be run and marked, a line from the southwest bridge near James Caddell's, to Carnegy's old field, on Rattlesnake branch ; then a direct line to William Randall's mill, on Trent river ; then to the place where Abraham Bailey lately lived ; and from thence south to the bounds of Onslow county ; and that all that part of Craven county lying to the westward of those lines be annexed to Dobbs county ; and the inhabitants thereof shall be liable and subject to the same duties, taxes and impositions, and entitled to the same privileges, benefits, and advantages, as the other inhabitants of the said county of Dobbs.

AN ACT FOR DIVIDING THE COUNTY OF DOBBS.

(Passed in the year 1791.)

Whereas it is necessary for the peace and good order of the inhabitants of the county of Dobbs, that the same should be divided :

Glasgow and
Lenoir counties
erected.

1. *Be it therefore enacted, &c.,* That from and after the passing of this act, the said county of Dobbs be divided, by running a direct line from where the dividing line between the said county of Dobbs and Wayne county crosses Bear creek, to the head of Wheat swamp, a little above Richard Hodges's, then down said Wheat swamp to William Killpatrick's, and from thence a direct line to the Craven county line, opposite the mouth of Little Contentnea ; and that all that part of the late county of Dobbs lying south and southeast of the said lines, be held and deemed a distinct county, by the name of Lenoir ; and that all the remainder of the said late county of Dobbs, lying north and northeast of the afore-said lines, be held and deemed a distinct county, by the name of Glasgow.

AN ACT TO ALTER THE NAME OF GLASGOW COUNTY TO THAT OF GREENE.

(Passed in the year 1799.)

Be it enacted, &c., That from and after the passing of this act the county of Glasgow shall be called and known by the name of Greene county.

AN ACT TO ANNEX PART OF THE COUNTY OF CRAVEN TO GREENE.

(Passed in the year 1801.)

Be it enacted, &c., That from and after the passing of this act, all that part of the county of Craven lying in the fork of Great and Little Contentnea creek, shall be, and the same is hereby added to the county of Greene to all intents and purposes whatsoever. Part of Craven annexed to Greene county.

(See Wayne, Jones, Lenoir, Onslow and Craven.)

GUILFORD.

AN ACT FOR ERECTING A NEW COUNTY BETWEEN THE TOWNS OF SALISBURY AND HILLSBOROUGH, BY TAKING PART OF THE COUNTIES OF ROWAN AND ORANGE.

(Passed in the year 1770.)

1. Whereas the great extent of the respective counties of Rowan and Orange, renders the attendance of the inhabitants of part of Rowan county, and the inhabitants of the upper part of Orange county, to do public duties in their respective counties, extremely difficult and expensive : For remedy whereof,

2. *Be it enacted by the Governor, Council and Assembly, and by the authority of the same*, That a line beginning at a point twentyfive miles due west of Hillsborough, running thence north to the Virginia line, then west to a point due north of the Painted Springs, then south to Anson line, then along Anson and Cumberland lines to a point due south of the beginning, then north to the beginning, be erected into a distinct county by the name of Guilford county and Unity parish. Guilford county erected.

(See Rowan, Orange, Anson, Cumberland, Randolph and Rockingham.)

HALIFAX.

AN ACT FOR DIVIDING EDGCOMB COUNTY.

(Passed in the year 1758.)

1. Whereas divers inconveniences attend the inhabitants of Edgcomb county, by reason of the large extent thereof, and the great distance that many of them live from the court house, and other places usually appointed for public meetings :

2. *Be it therefore enacted by the Governor, Council and Assembly, and by the authority of the same*, That from and immediately County divid-

after the first day of January next ensuing, the said county of Edgcomb be divided, by the dividing line between the parish of Edgcomb and the parish of St Mary ; and that that part of the said county which is now the parish of St Mary, remain, be called and known by the name of Edgcomb county ; and that that part of the said county which is now the parish of Edgcomb, be thenceforth erected into one distinct county, and called and known by the name of Halifax.

Halifax erected.

(See Edgcomb and Martin.)

HAYWOOD.

AN ACT ERECTING THE WEST PART OF BUNCOMBE INTO A SEPARATE AND DISTINCT COUNTY, AND A PART OF BRUNSWICK AND A PART OF BLADEN COUNTIES INTO A SEPARATE AND DISTINCT COUNTY.

(Passed in the year 1803.)

Preamble.

Whereas the inhabitants in the west part of Buncombe county are very inconvenient to the court house in said county, which renders the attendance of jurors and witnesses very burthensome and expensive, and almost impossible in the winter season : For remedy whereof,

Boundary of the new county of Haywood.

1. *Be it enacted, &c.*, That all that part of the county of Buncombe, to wit : beginning where the southern boundary line of this State crosses the highest part of the ridge dividing the waters of the French Broad from those of the Tucky Siegy river, then along the said ridge to the ridge dividing the waters of Pigeon and the French Broad river, then with said ridge to the top of Mount Pisgah, thence a direct line to the mouth of the first branch emptying into Hominy creek on the north side above Jesse Belieu's, thence with said branch to the source, and thence along the top of the ridge, dividing the waters of French Broad and those of Pigeon river, to the northern boundary of this State, and with the State line to the line which shall divide this State from the state of Georgia, and with that line to the beginning, shall be and is hereby erected into a separate and distinct county, by the name of Haywood, in honor of the present treasurer of this State.

(See Buncombe and Macon.)

HERTFORD.

AN ACT FOR ERECTING PART OF THE COUNTIES OF CHOWAN, BERTIE AND NORTHAMPTON INTO A COUNTY AND PARISH.

(Passed in the year 1759.)

1. Whereas the large extent of the counties of Chowan, Bertie and Northampton, renders it grievous and burthensome to many of the inhabitants thereof to attend the courts of justice and other public meetings, appointed therein : For remedy whereof,

2. *Be it enacted by the Governor, Council and Assembly, and by the authority of the same,* That from and after the first day of May next, the said counties be divided, as follows, to wit : Be-^{Hertford coun-}ty erected.
ginning in Bertie county at the first high land on the northwest side of Mare branch, on Chowan river pocoson ; running thence by a direct line to Thomas Outlaw's plantation, near Stony creek ; thence by a direct line to Northampton county line, at the plantation whereon James Rutland formerly lived ; then along Northampton county line to the head of Beaver Dam swamp ; thence by a direct line to the easternmost part of Kerby's creek ; thence down the creek to Meherrin river ; then up Meherrin river to the Virginia line ; then easterly along the Virginia line to Bennet's creek ; then down Bennet's creek to Chowan river ; then across the river to the mouth of the said Mare branch ; and up the branch to the beginning : And all that part of the said counties included within the said bounds be thenceforth erected into a distinct county and parish, and called and known by the name of Hertford county, and parish of St Barnabas.

AN ACT FOR ALTERING THE BOUNDARY LINE BETWEEN THE COUNTIES OF NORTHAMPTON AND HERTFORD.

(Passed in the year 1764.)

1. *Be it enacted by the Governor, Council and Assembly, and by the authority of the same,* That from and after the first day of March next, the dividing line between the said county of Hertford and Northampton shall be altered as followeth, to wit : Beginning on Kirby's creek, where the dividing line joins the said creek, running thence up the creek to the fork thereof ; then up Turkey creek to Maple fork ; thence by a direct south course till it intersects the present dividing line.

(See Chowan, Bertie, Northampton and Gates.)

HYDE.

AN ACT TO MAKE HYDE PRECINCT SEPARATE FROM BEAUFORT PRECINCT, WITH POWER OF ERECTING A COURT HOUSE, AND HOLDING COURTS.

(Passed in the year 1729.)

1. Whereas the precinct of Hyde being united to Beaufort precinct, is found very inconvenient for the inhabitants of Hyde precinct to travel to Bathtown, where the courts are now held :

2. *Be it therefore enacted by His Excellency the Palatine, and the rest of the true and absolute Lords Proprietors of Carolina, by and with the advice and consent of the rest of the members of this General Biennial Assembly, now met at Edenton, for the north-east part of the said province, and it is hereby enacted by the authority of the same,* That, for the future, Hyde precinct shall be separate, in all respects, from Beaufort precinct, with power of having a court and court house erected in the said precinct, and other powers and privileges to a precinct belonging.

Hyde precinct erected.

AN ACT TO ADD THAT PART OF THE PROVINCE CALLED MATTAMUSKEET, AND LAKE, TO HYDE COUNTY.

(Passed in the year 1745.)

1. We pray it may be enacted, *And it is hereby enacted, by His Excellency Gabriel Johnston, Esq., Governor, by and with the advice and consent of His Majesty's Council, and the General Assembly of this province, and by the authority of the same,* That Mattamuskeet, and the lake thereunto belonging, shall, from henceforward, be accounted, taken, reckoned, and deemed part of Hyde county : and that the inhabitants thereof shall be subject and liable to the same orders, rules and taxes, as any other of the inhabitants of the said county are, or hereafter shall be ; any law, custom or usage to the contrary notwithstanding.

Mattamuskeet deemed part of Hyde county.

AN ACT FOR EXTENDING THE DIVIDING LINE BETWEEN THE COUNTIES OF HYDE AND TYRREL.

(Passed in the year 1784.)

1. *Be it enacted, &c.,* That Southy Rew, John Eburns, Israel Watson, James Anderson, William Blount and Nathaniel Jones, or any four of them, be, and they are hereby appointed commissioners for the counties of Hyde and Tyrrel, and that they or any four of them shall meet on or before the first day of December, seventeen hundred and eightyfive, and jointly proceed to run and

Commissioners appointed to run the line.

mark the said line as follows : Beginning where the counties of Beaufort, Martin and Tyrrel corner, thence a direct course to Long Shoal river, and thence the same course continued to Pamlico sound.

AN ACT TO ADD A PART OF CURRITUCK COUNTY TO HYDE COUNTY.

(Passed in the year 1823.)

1. *Be it enacted, &c.*, That all that part of Currituck county, which lies south of New inlet, be, and the same is hereby added to the county of Hyde. A part of Currituck added to Hyde county.

(See Beaufort, Carteret and Currituck.)

IREDELL.

AN ACT FOR DIVIDING THE COUNTY OF ROWAN.

(Passed in the year 1788.)

Whereas the extent of the county of Rowan renders it inconvenient and troublesome to many of the inhabitants thereof to attend the courts, annual elections, juries, and other public meetings therein :

1. *Be it enacted, &c.*, That from and after the passing of this act, the said county of Rowan shall be divided by a line beginning where Coddle creek enters Mecklenburg, and running up the east fork of the said creek to the road leading from Beatie's ford to Salisbury, from thence a strait course to Alexander M'Korkle's, Sen., from thence to the south fork of the Yadkin river, at the mouth of a branch in Margaret Dobbins's meadow, and from thence due north to the Surry line ; that all that part of the said county of Rowan lying westwardly of the said dividing line, shall thenceforth be erected into a new and distinct county, by the name of Iredell. Division line. Iredell county erected.

AN ACT TO ADD PART OF BURKE AND WILKES COUNTIES TO THE COUNTY OF IREDELL.

(Passed in the year 1793.)

Whereas it is represented by petition to this General Assembly that many of the inhabitants of Burke and Wilkes counties would be highly benefited by being added to Iredell county :

Be it therefore enacted, &c., That from and after the passing of this act, Iredell county shall be extended in the following manner, to wit : Beginning at Iredell county line on the Catawba river, Iredell county extended.

thence up said river about three miles to Uriah Davis, thence nearly a north course about two miles to the bent on lower Little river, in James Fox's land, thence up said river to the lower end of John Barne's land, thence nearly a northeast course along the dividing ridge between Grassy and Muddy forks to Iredell line between Black Oak ridge and Brushy mountain, thence a south course along said line to the beginning ; and all the land included by said line is hereby annexed and added to the county of Iredell.

(See Rowan, Burke and Wilkes.)

JOHNSTON.

AN ACT FOR ERECTING THE UPPER PART OF CRAVEN COUNTY INTO A COUNTY AND PARISH, AND FOR APPOINTING A PLACE FOR BUILDING A COURT HOUSE, PRISON AND STOCKS IN THE SAID COUNTY.

(Passed in the year 1746.)

1. We pray that it may be enacted, *And be it enacted by His Excellency Gabriel Johnston, Esq., Governor, by and with the advice and consent of His Majesty's Council, and General Assembly of this province, and it is hereby enacted by the authority of the same,* That Craven county be divided by a line, beginning at the mouth of the southwest creek, on the south side of Neus river, below Francis Stringer's ferry, running up the said creek as far as the aforesaid county extends that way, and running a north line from the mouth of the said southwest creek, as far as the county extends northwardly ; and that the upper part of the said county be erected into a county, by the name of Johnston county and St Patrick's parish, as divided by a line that shall be agreed on by the commissioners hereafter named : And that the said county and parish shall enjoy all the privileges and advantages that any other county and parish in this province holds or enjoys : save only that the said county shall send but two representatives to sit in the General Assembly.

Craven county divided, and Johnston county erected.

AN ACT FOR ADDING PART OF ORANGE COUNTY TO JOHNSTON COUNTY, AND FOR ASCERTAINING THE DIVIDING LINE BETWEEN THE SAID COUNTIES.

(Passed in the year 1761.)

1. *Be it therefore enacted by the Governor, Council and Assembly, and by the authority of the same,* That that part of Orange county lying on Neuse river, be added to the county of Johnston ; and be divided by a line to begin at the southwest corner of Granville county, and running thence a due south course to

Part of Orange county added to Johnston.

Johnston or Cumberland county line, which of the said county lines it may first intersect.

AN ACT FOR ADDING PART OF THE COUNTY OF DUPLIN TO JOHNSTON.

(Passed in the year 1777.)

1. Whereas the upper part of Duplin county is very extensive in length, which renders it burthensome to the inhabitants of Johnston and Cumberland counties, by reason of the said county of Duplin running up twenty miles between Johnston and Cumberland counties, not more than three miles wide, which obstructs the making of roads, and keeping them in repair, much to the injury of the inhabitants of the aforesaid counties, and damage of travellers ;

2. *Be it enacted, &c.*, That all that part of Duplin county, above Dismal creek, be added to the county of Johnston, and that it be divided by said creek, beginning at the mouth of the creek, Cumberland line, thence running up the meanders of the said creek an east course to Johnston county line ; and that from and after the passing of this act, all that part of Duplin county above said creek be annexed to, and made part of the county of Johnston, and the inhabitants thereof shall be subject and liable to the same rules, orders, taxes and privileges as any other the inhabitants of the county of Johnston.

(See Orange, Greene, Wake and Duplin.)

JONES.

AN ACT FOR DIVIDING CRAVEN COUNTY INTO TWO DISTINCT COUNTIES, AND FOR OTHER PURPOSES THEREIN MENTIONED.

(Passed in the year 1779.)

1. Whereas the large extent of the county of Craven renders the attendance of the inhabitants of the extreme parts thereof at the court house, to perform public duties, difficult and expensive : For remedy whereof,

2. *Be it enacted, &c.*, That from and after the passing of this act, the said county of Craven shall be divided into two distinct counties, by a line beginning at that part of Carteret line which lies directly south from the head of Reedy branch, running thence to the head of the said branch, and so down the meanders of the same to Trent river ; thence up Trent river to the mouth of Deep Gully branch, to Dover or Bachelor desert ; thence up Dover or Bachelor desert, to the plantation of Thomas Kent ; thence a di-

rect course to the Southwest bridge, at Dobbs county line ; and that all that part of the said county of Craven which lies above or westwardly of the said dividing line, shall be established a new and distinct county, by the name of Jones.

AN ACT FOR ANNEXING PART OF CARTERET TO JONES, AND OTHER PURPOSES.

(Passed in the year 1779.)

1. Whereas the upper part of Carteret which lies adjoining Jones county, is much more convenient to the public buildings of said county than to those of Carteret :

Part of Carteret added to Jones.

2. *Be it therefore enacted*, That all that part of the said county of Carteret beginning in Jones county line in the head of Black swamp, thence running down the meanders of said swamp to White Oak river, then up the various courses of said river to the head, thence a direct line to Jones county line, that all that part on the north side of said White Oak river, and west of the aforesaid swamp, shall, from and after the passing of this act, be held and deemed part of the county of Jones, and the inhabitants thereof shall be under the same rules and restrictions as the other inhabitants of Jones county are.

AN ACT TO ANNEX PART OF DOBBS COUNTY TO THE COUNTY OF JONES.

(Passed in the year 1788.)

Whereas it is represented to the General Assembly, that it would greatly add to the ease and convenience of a number of the inhabitants of Dobbs county, to be added to the county of Jones :

Part of Dobbs annexed to Jones county.

1. *Be it therefore enacted, &c.*, That all that part of Dobbs county lying between the following lines, beginning at Dortche's mill, on Trent river, running from thence a direct line to the widow Jerman's, and from thence to Duplin line, then with the same to Onslow line, then with Onslow line to where Dobbs and Jones line intersects the same ; and that all that part of Dobbs between the said lines, be and the same is hereby added to and made part of Jones county.

AN ACT TO ANNEX A PART OF THE COUNTY OF CARTERET TO THE COUNTY OF JONES.

(Passed in the year 1788.)

Whereas it is represented to the General Assembly, that it would greatly add to the ease and convenience of a number of the inhabitants of Carteret county, to be added to the county of Jones :

1. *Be it therefore enacted, &c.*, That all that part of Carteret county lying on the north side White Oak river and on the west side of Hunter's creek, be and the same is hereby annexed to and made part of Jones county.

Part of Carteret annexed to Jones county.

(See Craven, Carteret and Greene.)

LENOIR.

AN ACT FOR DIVIDING THE COUNTY OF DOBBS.

(Passed in the year 1791.)

Whereas it is necessary for the peace and good order of the inhabitants of the county of Dobbs, that the same should be divided :

1. *Be it therefore enacted, &c.*, That from and after the passing of this act, the said county of Dobbs be divided, by running a direct line from where the dividing line between the said county of Dobbs and Wayne county crosses Bear creek, to the head of Wheat swamp, a little above Richard Hodges's, then down said Wheat swamp to William Killpatrick's, and from thence a direct line to the Craven county line, opposite the mouth of Little Contentnea ; and that all that part of the late county of Dobbs lying south and southeast of the said lines, be held and deemed a distinct county, by the name of Lenoir ; and that all the remainder of the said late county of Dobbs, lying north and northeast of the aforesaid lines, be held and deemed a distinct county, by the name of Glasgow.

Glasgow and Lenoir counties erected. [Glasgow altered to Greene by private act of 1799.]

AN ACT TO ADD PART OF THE COUNTY OF CRAVEN TO LENOIR.

(Passed in the year 1798.)

Be it enacted, &c., That that part of the county of Craven lying within the following boundaries, be annexed to the county of Lenoir, to wit : Beginning on the river Neuse where the dividing line of the two counties crosses the same ; thence running down the various courses of the river to the mouth of Stoneyton creek ; thence up the various courses of Stoneyton creek to where the dividing line between the two counties crosses the same ; thence along the same to the beginning on the river Neuse : and that the above described part of the county of Craven be hereafter a part of the county of Lenoir.

Part of Craven county added to Lenoir.

AN ACT TO ANNEX PART OF THE COUNTY OF CRAVEN TO THAT OF LENOIR, AND FOR OTHER PURPOSES.

(Passed in the year 1804.)

Part of Craven county added to Lenoir.

Be it enacted, &c., That from and after the passing of this act, all that part of the county of Craven, lying in the fork of Neuse river and Great Contentney creek, shall be and the same is hereby added to the county of Lenoir, and shall become a part of said county of Lenoir, to all intents and purposes whatsoever.

AN ACT TO ANNEX PART OF CRAVEN COUNTY TO THE COUNTY OF LENOIR.

(Passed in the year 1819.)

Part of Craven county added to Lenoir.

Be it enacted, &c., That all that part of Craven county lying above Moseley's creek be and the same is hereby annexed to, and shall hereafter be considered as forming part of the county of Lenoir.

(See Greene, Jones, Duplin and Craven.)

LINCOLN.

AN ACT FOR DIVIDING THE COUNTY OF MECKLENBURG AND OTHER PURPOSES.

(Passed in the year 1768.)

1. Whereas by reason of the large extent of the county of Mecklenburg, it is greatly inconvenient for the inhabitants to attend the courts of the aforesaid county, and other public duties by law required :

Mecklenburg divided, and Tryon erected.

2. *Be it therefore enacted by the Governor, Council and Assembly, and by the authority of the same*, That from and after the tenth day of April next, the said county of Mecklenburg shall be, and is hereby divided into two distinct counties and parishes, by a line beginning at Earl Granville's line, where it crosses the Catawba river ; and the said river to be the line to the South Carolina line ; and that all that part of the said county which lies to the eastward of the said dividing line shall be a distinct county and parish, and remain and be called by the name of Mecklenburg county, and Saint Martin's parish ; and that all that part of the county lying to the westward of the said dividing line, shall be one other distinct county and parish, and be and remain by the name of Tryon county, and Saint Thomas' parish.

AN ACT FOR ASCERTAINING THE BOUNDARY LINE BETWEEN THE COUNTY OF ROWAN AND THE COUNTIES OF MECKLENBURG AND TRYON; AND FOR APPOINTING COMMISSIONERS TO RUN THE SAME.

(Passed in the year 1770.)

1. *Be it enacted by the Governor, Council and Assembly, and by the authority of the same,* That Thomas Neil, Thomas Polk, Matthew Locke, Griffith Rutherford, and Peter Johnston, Esquires, ^{Commissioners appointed to run the dividing line.} be appointed commissioners : and they, or a majority of them, are hereby empowered and required to run the dividing line between the said county of Rowan, and the counties of Mecklenburg and Tryon ; beginning at Cold Water, where John Patterson's upper line crosses the creek ; thence due west until it intersects the Cherokee Indian line ; which said line, when run by the commissioners aforesaid, or a majority of them, shall by them be entered on record in the court of each of the said counties, and shall hereafter be deemed and taken to be the dividing lines between the said counties.

AN ACT FOR DIVIDING TRYON COUNTY INTO TWO DISTINCT COUNTIES BY THE NAMES OF LINCOLN AND RUTHERFORD AND FOR OTHER PURPOSES THEREIN MENTIONED.

(Passed in the year 1779.)

1. Whereas the large extent of the county of Tryon renders the attendance of the inhabitants on the extreme parts of the said county to do public duties extremely difficult and expensive : For remedy whereof,

2. *Be it enacted, &c.,* That from and after the passing of this act, the county of Tryon shall be divided into two distinct counties, ^{Tryon county divided.} by a line beginning at the south line near Broad river, on the dividing ridge between Buffalo creek and little Broad river, thence along the said ridge to the line of Burke county, thence along the said line to the old Cherokee line, thence a due west course to the top of a dividing ridge between the eastern and western waters, thence along the said ridge to the old line claimed by South Carolina ; and all that part of the said county which lies on the east side of the said line shall be called and known by the name of Lincoln county, and all that part of the county which lies on the other or west side thereof, shall be called and known by the name of Rutherford county. ^{Lincoln and Rutherford erected.}

AN ACT FOR ADDING PART OF BURKE COUNTY TO LINCOLN, FOR APPOINTING COMMISSIONERS FOR THE PURPOSE THEREIN MENTIONED, AND FOR LAYING A TAX TO COMPLETE THE PUBLIC BUILDINGS THEREIN.

(Passed in the year 1782.)

1. Whereas it hath been represented to the Assembly by the inhabitants living in the southeast part of Burke county, that they labor under great hardship in attending on courts and other public meetings in the said county, from their remote situation from the court house, and have prayed to be added to the county of Lincoln :

Part of Burke
added to Lin-
coln.

2. *Be it therefore enacted, &c.*, That a line shall be run as follows, viz. beginning at Sharrol's ford, running with the road leading towards Henry Whitner's, as far as Matthew Wilson's, thence a direct course to Simon Horse's, on the waters of Clark's creek, thence a direct course to the Fish Dam ford of the south fork of the Catawba river, between James Wilson and David Robinson, and from thence a southwest course to Earl Granville's old line ; and that all that part of Burke county lying southeast of the line above described, shall henceforth be taken off from Burke, and shall be added and remain to Lincoln county.

AN ACT FOR ALTERING THE LINE BETWEEN THE COUNTIES OF LINCOLN AND BURKE, AND APPOINTING COMMISSIONERS TO FIX ON A CONVENIENT PLACE IN THE SAID COUNTY OF LINCOLN, TO ERECT THE PUBLIC BUILDINGS OF THE SAID COUNTY.

(Passed in the year 1784.)

Dividing line
between Burke
and Lincoln.

1. *Be it enacted, &c.*, That the boundary line, between the counties of Burke and Lincoln shall hereafter be as follows, to wit : Beginning at the horse ford on Catawba river, running thence to John Hawnsen, Hendry river, thence to William Orrson, Jacob's river, and thence to the intersection of the counties of Burke, Lincoln and Rutherford, as they now stand.

(See Mecklenburg, Burke and Rutherford.)

MACON.

AN ACT TO ERECT THAT SECTION OF COUNTRY COMMONLY CALLED THE CHEROKEE PURCHASE INTO A SEPARATE COUNTY.

(Passed in the year 1828.)

Be 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 Haywood county bounded as follows, viz : Beginning on the Tennessee line, on the extreme height of the Great Smoky mountain ; thence along the main summit of a ridge that divides the waters of the Oconaluftee river from those of Deep creek, to the head waters of Newton's mill creek ; thence down the said creek to the Tuckaseega river ; thence up the main channel of the river to the first main fork above the mouth of the Cany fork of said river ; thence along the ridge dividing the forks of said river to the top of the main Blue ridge, which divides the eastern from the western waters ; thence eastwardly along the various courses of the said Blue ridge to the South Carolina line ; thence with the said line to Ellicott's rock on the east bank of Chattouga river ; thence with the line dividing this State from Georgia to the line of Tennessee ; thence along with the Tennessee line to the extreme height of the Great Smoky mountain, the point of beginning ; be, and the same is hereby erected into a separate and distinct county, by the name of Macon, with all the rights, privileges and immunities of the other counties of this State.

(See Haywood.)

MARTIN.

AN ACT FOR ERECTING PART OF THE COUNTIES OF HALIFAX
AND TYRRELL INTO ONE DISTINCT COUNTY AND PARISH.

(Passed in the year 1774.)

1. Whereas the great extent of the counties of Halifax and Tyrrell, renders it exceedingly troublesome and expensive to many of the inhabitants thereof to attend the courts of justice, elections and general musters, and for the sheriffs to make public collections : For remedy whereof,

2. *Be it enacted by the Governor, Council and Assembly, and by the authority of the same,* That from and after the passing of this act, the said counties be divided as follows, to wit : Beginning at the mouth of Kahukee creek, on Roanoke river, and running a direct line to Edgcomb county line, where it crosses the Tar river road that leads by Nicholas Loyd's ; thence down Edgcomb line, to Pitt county line ; thence along Pitt line, to Beaufort county line ; thence along Beaufort line, to the head of Welch's creek, near Stewart Hamilton's plantation ; thence down Welch's creek to Roanoke river ; thence up the river to the beginning ; and all that part of the said counties, included within the said bounds, be thenceforth erected into a distinct county and parish, and called and known by the name of Martin county, and parish of St Martin.

AN ACT TO ANNEX PART OF PITT COUNTY TO THE COUNTY OF MARTIN.

(Passed in the year 1805.)

Part of Pitt county added to Martin.

Be it enacted, &c., That from and after the passing of this act, all that part of Pitt county bounded as follows, shall be annexed to the county of Martin, viz : Beginning where the present county line intersects the fork of Tranter's creek and Flat swamp, thence along Flat swamp to where the present county line crosseth said swamp ; and all that part of Pitt county lying north of the before recited boundaries shall hereafter be part of Martin county, and under the same rules and regulations and restrictions as the county of Martin is or may be : *Provided*, nothing herein contained shall prevent the sheriff of Pitt county from collecting the taxes due him from said inhabitants, any law to the contrary notwithstanding.

AN ACT TO ANNEX PART OF BEAUFORT TO THE COUNTY OF MARTIN.

(Passed in the year 1816.)

Dividing line between Beaufort and Martin.

Be it enacted, &c., That from and after the passing of this act, the line, dividing the counties of Beaufort and Martin, shall run in the following manner, viz : Beginning where the line that now divides the said counties intersects the Bear Grass swamp, running along the main drain of said swamp, to the main drain of Tranter's creek, thence up the main drain of said creek to the mouth of the Flat swamp, the present dividing line between the counties of Martin and Pitt, any law to the contrary notwithstanding.

(See Halifax, Tyrrell, Pitt, Beaufort, Edgcomb and Washington.)

MECKLENBURG.

AN ACT FOR DIVIDING THE COUNTY OF ANSON, AND OTHER PURPOSES.

(Passed in the year 1762.)

Anson county divided, and Mecklenburg county erected.

1. *Be it enacted by the Governor, Council and Assembly, and by the authority of the same*, That from and after the first day of February, the said county of Anson shall be, and is hereby divided into two distinct counties, by a line beginning at Lord Carteret's line, six miles northeast from Captain Charles Hart's plantation on Buffalo creek, and to run thence to the mouth

of Clear creek, which empties itself into Rocky river, below Captain Adam Alexander's; and from thence due south to the bounds of the province of South Carolina: And that all that part of said county which lies to the eastward of said dividing line, shall be a distinct county, and remain and be called by the name of Anson county; and that all that part of the said county lying to the westward of said dividing line, shall be thenceforth one other distinct county, and called by the name of Mecklenburg.

AN ACT FOR APPOINTING COMMISSIONERS FOR BUILDING A COURT HOUSE, PRISON AND STOCKS FOR THE COUNTY OF TRYON, AND FOR ESTABLISHING A BOUNDARY LINE BETWEEN THE COUNTIES OF TRYON AND MECKLENBURG.

(Passed in the year 1774.)

And whereas sundry disputes have arisen, relative to the boundary line between the said county of Tryon and the county of Mecklenburg, to prevent which for the future, *Be it enacted by the authority aforesaid*, That the river Catawba be, and is hereby declared the boundary line between the said counties.

Boundary between the two counties.

(See Lincoln, Cabarrus and Anson.)

MONTGOMERY.

AN ACT FOR DIVIDING THE COUNTY OF ANSON INTO TWO DISTINCT COUNTIES, AND OTHER PURPOSES THEREIN MENTIONED.

(Passed in the year 1779.)

1. Whereas the large extent of the county of Anson renders it grievous and troublesome to many of the inhabitants thereof to attend the courts, general elections, and other public meetings appointed therein:

2. *Be it therefore enacted, &c.*, That from and after the passing of this act, the said county of Anson be divided by the road leading from Munro's bridge, on Drowning creek, to Colson's ferry, to a point opposite the mouth of Rocky river; thence running a direct line, crossing Pee Dee river to the mouth of Rocky river; thence up the various courses of Rocky river to the dividing line between the counties of Anson and Mecklenburg; and that all that part of the said county of Anson which lies to the north of the said dividing line shall be erected into a new and distinct county, by the name of Montgomery.

AN ACT TO EMPOWER THE COUNTY COURT OF PLEAS AND QUARTER SESSIONS OF RICHMOND AND MONTGOMERY COUNTIES TO APPOINT COMMISSIONERS TO ESTABLISH THE DIVIDING LINE BETWEEN SAID COUNTIES.

(Passed in the year 1822.)

1. *Be it enacted, &c.*, That the courts of pleas and quarter sessions of Richmond and Montgomery counties, be, and they are hereby authorized, at the first court after the first day of April next, five justices being present and consenting thereto, to appoint two commissioners and one surveyor, in each county respectively, for the purpose of resurveying, marking out and establishing the dividing line between said counties, with as little deviation as possible from the original dividing line; beginning at Campbell's bridge, (formerly Monroe's) on Drowning creek, and running to Peedee river, at or near Colson's ferry, and passing the several water courses at the places where the original line crossed them, respectively; and the said commissioners and surveyor shall be allowed such compensation, per day, as the said courts may deem necessary for their services; and each county paying their own commissioners and surveyor; and when said line shall be so run and established, it shall be thereafter considered the permanent dividing line between said counties.

2. *Be it enacted, &c.*, That the said commissioners and surveyors shall return to the court of their respective counties a plat of their proceedings, at the next term thereafter, designating the said line and specifying all the remarkable places by which the same passes, so that the same may be always identified and referred to when necessary, which shall become a record of the said courts, respectively.

(See Anson and Richmond.)

MOORE.

AN ACT FOR DIVIDING CUMBERLAND COUNTY INTO TWO DISTINCT COUNTIES.

(Passed in the year 1784.)

County erected
by the name of
Moore.
Boundary.

1. *Be it enacted, &c.*, That from and after the fourth day of July next, the county of Cumberland shall be divided into two distinct counties, by a line beginning at Cole's bridge, on Drowning creek, thence a direct line to the corner of Wake and Johnston counties, in Cumberland line, and all that part of Cumberland lying to the northwest of the new line, shall be a separate and distinct county by the name of Moore county.

AN ACT TO AMEND AN ACT, ENTITLED AN ACT FOR DIVIDING THE COUNTY OF CUMBERLAND, PASSED AT HILLSBOROUGH, LAST GENERAL ASSEMBLY, AND TO CONFIRM THE PROCEEDINGS OF THE JUSTICES OF MOORE COUNTY, AND TO ALTER THE TIME OF HOLDING THE COURTS OF SAID COUNTY.

(Passed in the year 1784.)

1. Whereas by some mistake in describing the dividing line of the late county of Cumberland, it has been directed to be laid off in a different manner from what was intended : For remedy whereof,

2. *Be it enacted, &c.*, That the line for dividing the county of Cumberland shall begin at Cole's bridge, on Drowning creek, thence a direct line to the Cumberland and Chatham line, on the south side of the river Cape Fear; and that Thomas Armstrong, William Seals and William Rand, or a majority of them, be, and they are hereby appointed commissioners to appoint and agree with a surveyor for the purpose of running the said dividing line; and the said line when so run shall be held, deemed and taken to be the dividing line of the said county of Cumberland, and that the lower county continue and remain by the name of Cumberland county.

3. *And be it further enacted*, That all that part of the county lying to the northwest of the new line, shall be and continue by the name of Moore county.

(See Cumberland.)

NASH.

AN ACT FOR DIVIDING EDGCOMB COUNTY, AND OTHER PURPOSES THEREIN MENTIONED.

(Passed in the year 1777.)

1. Whereas the large extent of the county of Edgcomb renders it grievous and troublesome to many of the inhabitants thereof to attend the courts and general elections, and other public meetings appointed therein :

2. *Be it therefore enacted, &c.*, That from and after the present session of Assembly, the said county of Edgcomb be divided by a line, beginning at the Cool springs, at John Powell's, on Fishing creek, thence running to the falls of Tar river, from thence to the widow Rose's on Contentney; and that all that part of the late county of Edgcomb which lies to the east of the said dividing line, shall continue and remain a distinct county, by the name of Edgcomb; and that all that other part of the said county of Edgcomb which lies west of the said dividing line, shall thenceforth be erected into a new and distinct county, by the name of Nash county.

(See Edgcomb.)

NEW HANOVER.

AN ACT TO AMEND AN ACT FOR EMPOWERING THE SEVERAL COMMISSIONERS THEREIN AFTER NAMED, TO MAKE, MEND AND REPAIR ALL ROADS, BRIDGES, CUTS AND WATER COURSES, ALREADY LAID OUT, OR HEREAFTER TO BE LAID OUT, IN THE SEVERAL COUNTIES AND DISTRICTS THEREIN AFTER APPOINTED, IN SUCH MANNER AS THEY JUDGE MOST USEFUL TO THE PUBLIC, AND OTHER PURPOSES.

(Passed in the year 1756.)

1. And whereas Bladen county extends down the northwest river of Cape Fear, the distance of fifteen miles below the upper bounds of New Hanover county, which makes it very inconvenient for the inhabitants of Bladen county to work on the public roads in that district : For remedy whereof, *Be it enacted by the authority aforesaid*, That a northeast line be run directly from, and opposite the mouth of Levingston's creek, to Black river, then down the said river to the mouth thereof, and then up the Northwest river to the mouth of the said creek ; and all the lands within the said bounds are hereby annexed to the county of New Hanover, and shall hereafter be deemed and held to be within the limits of the same, and make part of the northwest district of New Hanover county ; and the inhabitants thereof subject and liable to such duties, taxes and impositions, and also entitled to the rights, privileges and advantages as the other inhabitants of the said county are.

Part of Bladen county added to New Hanover.

(No other part of this act is in force.)

AN ACT TO ANNEX PART OF BRUNSWICK COUNTY TO THE COUNTY OF NEW HANOVER.

(Passed in the year 1788.)

Whereas it is represented to the General Assembly, that the inhabitants of Brunswick county, who reside in the fork of Black river and the northwest branch of Cape Fear river, suffer many inconveniences in performing their public duties, having to cross the Northwest river, which in time of freshes is difficult, if not impracticable : For remedy whereof,

1. *Be it enacted, &c.*, That from and after the passing of this act, all that part of the county of Brunswick which lies in the fork of Black river and the Northwest, as far as the Bladen line, shall hereafter be annexed to the county of New Hanover.

Part of Brunswick added to New Hanover.

AN ACT TO ANNEX SMITH'S ISLAND, AT THE MOUTH OF CAPE FEAR RIVER, TO BRUNSWICK COUNTY, AND PART OF EAGLE'S ISLAND TO THE COUNTY OF NEW HANOVER.

(Passed in the year 1809.)

2. *And be it further enacted*, That all that part of Eagle's island, on the east side thereof, as conveyed and described in deeds recorded in the register's office of New Hanover county, from John Watson to Michael Higgins and Caleb Grainger, including the ground up to the thoroughfare as mentioned therein, running down to the entrance thereof into the Northeast river, and down the same to the beginning, described in said deed to Higgins, or so far as the wharves, for the purpose of carrying on commerce, opposite the town of Wilmington, now are, or hereafter may be erected, and running back with the lines designated in said deeds from Watson to Higgins and Grainger, being fourteen hundred and eightyfive feet, or thereabouts, back from the river, shall be, and the same is hereby taken from the county of Brunswick, and annexed to the county of New Hanover.

And part of
Eagle's Island
to New Han-
over.

(See Duplin, Brunswick, Sampson and Onslow.)

NORTHAMPTON.

AN ACT FOR ERECTING THE UPPER PART OF BERTIE COUNTY INTO A COUNTY, BY THE NAME OF NORTHAMPTON COUNTY; AND FOR REGULATING THE LIMITS BETWEEN SOCIETY PARISH, AND THE NORTHWEST PARISH OF BERTIE; AND FOR REMOVING THE SEAT OF BERTIE COUNTY COURT.

(Passed in the year 1741.)

1. We pray that it may be enacted, *And be it enacted by His Excellency Gabriel Johnston, Esq., Governor, by and with the advice and consent of His Majesty's Council, and General Assembly of this province, and it is hereby enacted by the authority of the same*, That that part of Bertie county, which lieth north and west of Sandy run, and in a direct line from the head of the said run, to the head of the Beaver Dam swamp, and Meherrin creek and river, be and is hereby erected into a county, by the name of Northampton county; and that the said bounds shall, henceforward, be the limits between Society parish, and the northwest parish of Bertie.

Northampton
county erected.

(See Bertie, Hertford and Warren.)

ONSHOW.

AN ACT TO CONFIRM AND ESTABLISH THE PRECINCTS OF ONSLOW
AND BLADEN, AND FOR APPOINTING THEM DISTINCT PARISHES.

(Passed in the year 1734.)

1. Whereas by an act, entitled, An act for regulating vestries in this government, and for the better inspecting vestrymen and churchwarden's accounts of each and every parish in this government, it is enacted, that the southern part of this province shall be erected into a precinct, by the name of New Hanover precinct, and bounded to the northward by the Haul-over and Little inlet, and to the southward by the southernmost bounds of the province ; and as the precinct of New Hanover is now become very populous, and the extent thereof being found too incommodious to many of the inhabitants thereof, particularly those of New river, and the upper part of the Northwest river :

2. We therefore pray that it may be enacted, *And be it enacted by His Excellency Gabriel Johnston, Esquire, Governor, by and with the advice and consent of His Majesty's Council, and General Assembly of this province, and it is hereby enacted by the authority of the same,* That a precinct be erected at New river, by the name of Onslow precinct ; and that the said precinct be bounded to the northward by White Oak river, from the mouth to the head thereof ; and to the southward, by a creek that comes out of the sound, and comes across New river road, called the Bay swamp, or Beasley's creek.

Onslow pre-
cinct erected.

(See New Hanover, Bladen and Duplin.)

ORANGE.

AN ACT FOR DIVIDING PART OF GRANVILLE, JOHNSTON AND BLADEN COUNTIES, INTO A COUNTY AND PARISH, BY THE NAME OF ORANGE COUNTY, AND THE PARISH OF ST MATHEW; AND FOR APPOINTING VESTRYMEN FOR THE SAID PARISH, AND OTHER PURPOSES THEREIN MENTIONED.

(Passed in the year 1752.)

1. We pray that it may be enacted, *And be it enacted by His Excellency Gabriel Johnston, Esq., Governor, by and with the advice and consent of His Majesty's Council, and General Assembly of this province, and it is hereby enacted by the authority of the same,* That the upper part of Granville, Johnston and Bladen counties, be erected into a county and parish, by the name of Orange county, and the parish of St Matthew : and be divided by a line, be-

Orange county
erected.

ginning on the nearest part on the Virginia line to Hico creek, thence a direct line to the Bent of Eno river, below the Occanechas, near the plantation where John Williams now dwelleth; thence down the south side of Eno river, to Neuse river; thence down Neuse river, to the mouth of Horse creek; thence a direct line to the place where Earl Granville's line crosses Cape Fear river; thence along the said line to the eastern bounds of Anson county; thence along the dividing line of Anson county, to the end thereof; and that the upper parts of the said counties be divided and run accordingly, by the commissioners hereinafter appointed: and that the said county and parish shall enjoy all and every the privileges which any other county or parish in this province holds or enjoys.

AN ACT TO AMEND AN ACT, ENTITLED, AN ACT FOR DIVIDING PART OF GRANVILLE, JOHNSTON AND BLADEN COUNTIES, INTO A COUNTY AND PARISH, BY THE NAME OF ORANGE COUNTY, AND THE PARISH OF ST MATTHEW, AND FOR APPOINTING VESTRYMEN FOR THE SAID PARISH, AND OTHER PURPOSES THEREIN MENTIONED.

(Passed in the year 1753.)

1. Whereas it is found to be more convenient to the inhabitants of the said county to have the lines mentioned in the abovesaid act, to run from the nearest part of the Virginia line to Hico creek, in a direct line to the bent of Eno river, below the Occanechas, and from thence down the Eno river, to Neuse river, and from thence down Neuse river, to the mouth of Horse creek, altered by a line to be run, beginning on the Virginia line, twenty miles west of Granville court house, running thence a south course to Neuse river, thence bounded by the said river to the mouth of Horse creek; and that the jurors directed by the said act to attend the general court of Newbern, should be returnable, and attend the court of assize, in Edgcomb county:

2. We pray that it may be enacted, *And be it enacted by the Honorable Matthew Rowan, Esq., President and Commander-in-chief of this province, by and with the advice and consent of His Majesty's Council, and the General Assembly of this province, and it is hereby enacted by the authority of the same,* That instead of the lines mentioned in the above recited act, to be run from the nearest part of the Virginia line to Hico creek, in a direct line to the bent of Eno river, below the Occanechas, and from thence down the Eno river to Neuse river, at the mouth of Horse creek, a line shall be run, beginning on the Virginia line, twenty miles west of Granville court house, running thence a south line to Neuse river, and thence bounded by the said river to the mouth of Horse creek.

Boundary lines
of Orange
county.

(See Granville, Johnston, Bladen, Anson, Cumberland, Wake, Guilford, Chatham and Caswell.)

PASQUOTANK.

(See Tyrrell and Camden.)

PERQUIMONS.

AN ACT TO APPOINT COMMISSIONERS TO LAY OFF AND ESTABLISH THE DIVIDING LINE BETWEEN THE COUNTIES OF PERQUIMONS AND GATES.

(Passed in the year 1829.)

Whereas the dividing line between the counties of Perquimons and Gates have not heretofore been sufficiently described, either by actual surveys, or by known and fixed boundaries, whereby it becomes expedient, in order to prevent disputes between the inhabitants of said counties, that the said dividing line should be more accurately ascertained and laid off:

Commissioners
for running the
line.

1. *Be it therefore enacted, &c.*, That Willis Riddick and Langley Billups, of the county of Perquimons, and Joseph Gordon and Joseph Riddick, of the county of Gates, be and they are hereby appointed commissioners with full power and authority to lay off, extend and mark the line between the said counties, due regard being had to the former reputed line.

Their duty.

2. *And be it further enacted*, That the said commissioners shall appoint such surveyor, chain carriers and other attendants, as shall be necessary for the marking, extending and establishing the said line, and shall make, or cause to be made, a return of their proceedings to each of the courts of pleas and quarter sessions of the said counties, to be deposited and kept among the records thereof, and the said lines, when so extended, and laid off, shall forever thereafter be established and confirmed, as the dividing line between the said counties.

(See Gates and Chowan.)

PERSON.

AN ACT FOR DIVIDING CASWELL COUNTY.

(Passed in the year 1791.)

1. *Be it enacted, &c.*, That from and after the first day of February next, the county of Caswell shall be equally divided by a line already run, beginning on the Virginia line, and running from thence south to the line of Orange county.

2. *And be it further enacted*, That all that part of said county lying west of the line aforesaid, including the four western districts, shall continue and remain a distinct county by the name of Caswell; and that all that part lying east of said line including the four eastern districts, shall be erected into another distinct county by the name of Person.

Caswell county
divided, and
Person erected.

(See Caswell.)

PITT.

AN ACT FOR ERECTING THE UPPER PART OF BEAUFORT COUNTY INTO A COUNTY AND PARISH. BY THE NAME OF PITT COUNTY, AND ST MICHAEL'S PARISH, AND FOR ADJOURNING THE COURT FROM THE COURT HOUSE, ON THE LAND OF THOMAS BONNER, TO THE COURT HOUSE IN BATH TOWN; AND OTHER PURPOSES THEREIN MENTIONED.

(Passed in the year 1760.)

1. Whereas the large extent of the county of Beaufort renders it grievous and burthensome to the inhabitants thereof to attend the courts, general musters, and other public meetings appointed therein :

2. *Be it therefore enacted by the Governor, Council and Assembly, and by the authority of the same*, That from and after the first day of January next, the upper part of the said county of Beaufort, beginning at the line between the said county and Tyrrel, running south southwest to Cherry's run, where the main road crosses the said run; thence down the said run to Tranter's creek; thence down the said creek to Pamlico river; thence down the said river to the Fork point, on the south side of said river; thence up Chocowinity bay and creek to the head thereof; thence south southwest to the dividing line of the said county and Craven; thence along the dividing lines of Craven, Dobbs, Edgcomb and Tyrrel; so that all that part of Beaufort county to the westward of Cherry's run, Chocowinity bay and creek, shall, and is hereby declared to be a separate county and parish, and shall be called and known by the name of Pitt county and St Michael's parish, with all and every the rights, privileges, benefits and advantages, whatsoever, which any other county or parish within this province can, shall, or may lawfully hold, use or enjoy.

Pitt county
erected.

AN ACT FOR ANNEXING PART OF THE COUNTY OF CRAVEN TO PITT COUNTY.

(Passed in the year 1756.)

Whereas many of the inhabitants of the county of Craven have petitioned to be annexed to the county of Pitt :

1. *Be it therefore enacted, &c.*, That from and after the passing Division line.

of this act, all that part of the county of Craven, included in the following bounds, beginning at the Pitt line where Creeping swamp intersects the same, thence down the run or middle of the said swamp to the run or middle of the Clayroot swamp, thence down the run of the said Clayroot swamp to the run of Swift's creek swamp, thence up the run of the same to Isaac Gardner's ford or path across the same, thence a direct line to the lower landing on Grindal creek, which is in about half a mile of the said creek, thence down the said Grindal creek to the river Neuse, thence up the meanders of the said river Neuse to the mouth of Great Cotentney creek, thence up the said creek to the mouth of Little Cotentney creek, then up the same to the line of the county of Pitt, be, and the same is hereby annexed to, and shall be and remain a part of the county of Pitt.

(See Beaufort, Greene, Edgcomb and Martin.)

RANDOLPH.

AN ACT FOR DIVIDING THE COUNTY OF GUILFORD INTO TWO DISTINCT COUNTIES AND OTHER PURPOSES THEREIN MENTIONED.

(Passed in the year 1779.)

1. Whereas the large extent of the county of Guilford renders it grievous and troublesome to many of the inhabitants thereof to attend the courts, general musters, elections, and other public meetings :

Guilford county
divided.

2. *Be it therefore enacted, &c.*, That from and after the passing of this act, the said county of Guilford be divided into two separate and distinct counties, beginning on the Anson line, at the corner of Rowan ; thence running north twentyeight miles ; then east, to the Orange line ; and all that part of the said county of Guilford that lies south of the aforesaid line, shall continue to remain a distinct and separate county, by the name of Randolph.

Randolph
erected.

(See Guilford.)

RICHMOND.

AN ACT FOR DIVIDING ANSON COUNTY, AND OTHER PURPOSES.

(Passed in the year 1779.)

1. Whereas the large extent of the county of Anson, together with the difficulty of crossing the river Pee Dee, especially when waters are high, renders it grievous and troublesome to many of

the inhabitants to attend the courts, general musters, elections, and other public meetings appointed therein ;

2. *Be it therefore enacted, &c.*, That from and after the passing of this act, the said county of Anson be divided into two separate and distinct counties, and that the river Pee Dee be the dividing line ; and that all that part of Anson that lies on the southwest side of the river Pee Dee, shall be, continue and remain, a distinct county, by the name of Anson ; and that all that other part of the county of Anson that lies on the northeast side of said river, shall thenceforth be erected into a new and distinct county, by the name of Richmond county.

Richmond
erected.

(See Anson and Montgomery.)

ROBESON.

AN ACT FOR DIVIDING THE COUNTY OF BLADEN.

(Passed in the year 1786.)

Whereas the extent of the county of Bladen, and different water courses in the same, render it inconvenient and troublesome to many of the inhabitants thereof to attend the courts and general elections, and other public meetings appointed therein ;

1. *Be it enacted, &c.*, That from and after the passing of this act, the said county of Bladen be divided as follows : Beginning on Drowning creek where South Carolina line crosses said creek, thence up said creek to the mouth of the Great swamp, thence a direct line to a point on the main road five miles westwardly of the bridge on said Great swamp as the road now runs, thence running a straight line to Cumberland county, touching at Stewart's mills, on Rockfish ; and all that part of the late county of Bladen lying east of said line, shall continue and remain a distinct county by the name of Bladen ; and all that other part of the said county of Bladen lying west of said line, shall thenceforth be erected into a new and distinct county, by the name of Robeson.

Division line.

Robeson county
erected.

AN ACT TO ANNEX PART OF BLADEN COUNTY TO ROBESON COUNTY, AND TO AMEND AN ACT ENTITLED, AN ACT TO DIVIDE THE COUNTY OF BLADEN.

(Passed in the year 1788.)

Whereas it is represented to this General Assembly that all that part of the inhabitants west of the Great swamp in Bladen county, are inconveniently situated to attend the public meetings at the court house in the said county, and petitions to be added to the

county of Robeson ; which would be productive of many advantages, by enabling them to keep in repair certain roads crossing the Great swamp, and also to attend the courts of Robeson county with much convenience, to which they should belong by a natural boundary :

Part of Bladen
annexed to
Robeson.

1. *Be it therefore enacted, &c.*, That from and after the passing of this act, all that part of the county of Bladen west of the Great swamp, be and the same is hereby annexed to and shall remain part of the county of Robeson ; and that the dividing line between the said two counties shall be and forever remain as herein described, viz. : Beginning at the line dividing this State from South Carolina, where it crosses Drowning creek, and the said Drowning creek to be the line (as it now is) to the mouth of the aforesaid Great swamp, thence up the meanders of the east side of the said swamp to the head thereof, commonly called the Galberry, and thence a direct line to the head of Gilley's branch, and down the meanders of said branch to Rockfish creek, and thence to the nearest point to the Cumberland line.

(See Bladen and Cumberland.)

ROCKINGHAM.

AN ACT FOR THE DIVIDING THE COUNTY OF GUILFORD.

(Passed in the year 1785.)

Division line to
be run.

1. *Be it enacted, &c.*, That from and after the passing of this act, the said county of Guilford be divided by an east and west line, beginning at Haw river bridge, near James Martin's ; and that all that part of the late county of Guilford which lies to the south of the said line, shall continue and remain a distinct county by the name of Guilford ; and all that other part of the said county of Guilford which lies north of the said dividing line, shall thenceforth be erected into a new and distinct county by the name of Rockingham.

Rockingham
established.

ROWAN.

AN ACT FOR ERECTING THE UPPER PART OF ANSON COUNTY INTO A COUNTY AND PARISH, BY THE NAME OF ROWAN COUNTY AND ST LUKE'S PARISH; AND FOR APPOINTING A PLACE FOR HOLDING A COURT IN THE SAID COUNTY.

(Passed in the year 1753.)

2. We pray it may be enacted, *And be it enacted, by the Honorable Matthew Rowan, Esq., President, by and with the advice and consent of His Majesty's Council, and the General*

Assembly of this province, and by the authority of the same, That Rowan county erected. Anson county be divided by a line, to begin where Anson line was to cross Earl Granville's line, and from thence, in a direct line, north, to the Virginia line; and that the said county be bounded to the north by the Virginia line, and to the south by the southernmost line of Earl Granville's land: and that the upper part of the said county, so laid off and divided, be erected into a county and parish, by the name of Rowan county and St Luke's parish; and that all the inhabitants to the westward of the said line, and included within the before mentioned boundaries, shall belong and appertain to Rowan county: and that the said county and parish shall enjoy all and every the privileges, which any other county in this province holds or enjoys.

(See Cumberland, Guilford, Lincoln, Surry, Burke, Iredell and Davidson.)

RUTHERFORD.

AN ACT FOR DIVIDING TRYON COUNTY INTO TWO DISTINCT COUNTIES, BY THE NAMES OF LINCOLN AND RUTHERFORD, AND FOR OTHER PURPOSES THEREIN MENTIONED.

(Passed in the year 1779.)

1. Whereas the large extent of the county of Tryon renders the attendance of the inhabitants on the extreme parts of the said county to do public duties extremely difficult and expensive: For remedy whereof,

2. *Be it enacted, &c.,* That from and after the passing of this act, the county of Tryon shall be divided into two distinct counties, by a line beginning at the south line near Broad river, on the dividing ridge between Buffalo creek and Little Broad river, thence along the said ridge to the line of Burke county, thence along the said line to the old Cherokee line, thence a due west course to the top of a dividing ridge between the eastern and western waters, thence along the said ridge to the old line claimed by South Carolina; and all that part of the said county which lies on the east side of the said line shall be called and known by the name of Lincoln county, and all that part of the county which lies on the other or west side thereof, shall be called and known by the name of Rutherford county.

AN ACT TO ANNEX PART OF THE COUNTY OF BURKE TO RUTHERFORD COUNTY.

(Passed in the year 1786.)

Whereas by reason of a ledge of mountains that divide the waters of first Little Broad river from the waters of Silver and Cain

creeks, it is extremely difficult for the inhabitants on the south side of the said ledge to attend at the court house of the county of Burke ; And whereas the inhabitants on the south side of the ledge aforesaid, have signified their desire to be annexed to the county of Rutherford :

Part of Burke
added to Ruth-
erford.

1. *Be it therefore enacted, &c.*, That from and after the passing of this act, all that part of the county of Burke lying to the south-east of the aforesaid mountains so as to include all the waters of first Little Broad river, shall be, and the same is hereby annexed to and declared to be within the county of Rutherford. *Provided nevertheless*, That nothing herein contained shall be construed to debar the sheriffs or other collectors of public taxes for the county of Burke, from collecting all moneys that may be due at this time in that part of the said county, which is by this act annexed to the county of Rutherford ; any law, usage or custom to the contrary notwithstanding.

AN ACT TO ANNEX PART OF THE COUNTY OF BURKE TO THE
COUNTY OF RUTHERFORD.

(Passed in the year 1807.)

Part of Burke
county added
to Rutherford.

Be it enacted, &c., That from and after the passing of this act, the dividing line between the said counties of Burke and Rutherford, shall begin at a white oak tree that stands near the forks of the public road above James Jones's, in the line heretofore run between said counties, and the public road that leads up second Broad river shall be the line between the said counties as far as Joseph Goodbread's, thence a southwest course to the dividing ridge that divides the waters of Cove and Crooked creeks, thence the ridge that divides the waters of Catawba and Broad rivers, to the Buncombe county line. And the line as herein mentioned shall be the dividing line between the said counties of Burke and Rutherford ; any law, usage or custom to the contrary notwithstanding.

AN ACT TO AMEND AN ACT PASSED IN THE YEAR 1807, ENTITLED
"AN ACT TO ANNEX PART OF THE COUNTY OF BURKE TO THE
COUNTY OF RUTHERFORD."

(Passed in the year 1809.)

The line be-
tween the
counties of
Burke and
Rutherford.

1. *Be it enacted, &c.*, That a line shall extend from the White Oak mentioned in the above recited act, on the old east and west line, to a stake ; thence crossing Little Rock creek, to the south side of the tract whereon widow Smith lives ; thence crossing Big Rock creek, to the north side of Moses Black's buildings ; thence to a place called the Dye Stone ; thence to the north side of Levi Trout's buildings ; thence between the plantations of Perminter Morgan and Henry Carter, to the south side of the tract

of William Morris, senior ; thence with a spur of the mountain, to the dividing ridge between Crooked creek and Montford's cove creek, to the Hickory Nut mountain ; thence along the ridge to the Round mountain ; thence due west to the Buncombe line ; and all that part lying northwardly of said line, be, and the same is hereby declared to be in the county of Burke, and the part southwardly thereof shall continue, as heretofore, within the county of Rutherford, any law to the contrary notwithstanding.

(See Lincoln, Burke and Buncombe.)

SAMPSON.

AN ACT FOR DIVIDING DUPLIN COUNTY.

(Passed in the year 1784.)

Be it enacted, &c., That from and after the passing of this act the said county of Duplin shall be divided into two distinct counties, Sampson county erected. by a line beginning on the line that divides Duplin from New Hanover county, where the main road crosses Bulltail, a branch of Rockfish creek ; and running thence a straight line to the lower bridge on Stewart's creek, from thence a direct line to Goshen swamp at the mouth of Young's swamp, thence due north to the Wayne line ; and all that part of the said county of Duplin which lies west of the above line, shall be established into a separate and distinct county by the name of Sampson.

AN ACT TO ANNEX PART OF THE COUNTY OF NEW HANOVER TO SAMPSON COUNTY.

(Passed in the year 1795.)

1. *Be it enacted, &c.*, That from and after the passing of this act, all that part of New Hanover county lying west of a line beginning where the Sampson county line crosses Black river, thence down said river to Benjamin Robertson's lower mill branch, thence a direct course to Stewart's ferry on South river, and thence up the same to the point of beginning in Sampson line aforesaid, be and the same is hereby annexed to the county of Sampson, and shall to all intents and purposes be considered as a part thereof. Part of New-Hanover added to Sampson.

(See Duplin and New Hanover.)

STOKES.

AN ACT FOR DIVIDING THE COUNTY OF SURRY INTO TWO DISTINCT COUNTIES, AND FOR OTHER PURPOSES.

(Passed in the year 1789.)

Whereas the large extent and inconvenient situation of the county of Surry, render the attendance of the inhabitants of the extreme parts at courts, elections and general musters, difficult and expensive : for remedy whereof, and to gratify the wishes of the good people of the said county :

Division of
Surry.

1. *Be it enacted, &c.*, That from and after the passing of this act, the county of Surry shall be divided into two distinct counties, by a line beginning on the line dividing this State from the state of Virginia, at a point equidistant from the nearest parts of the counties of Rockingham and Wilkes, and running from thence until it intersects the Rowan county line, so as to leave an equal number of acres in each county.

Stokes county
erected.

2. *And be it further enacted, &c.*, That all that part of the said county, lying west of said line, shall be erected into a distinct county by the name of Surry county ; and all that part lying east of said line, shall be erected into another distinct county by the name of Stokes county.

(See Surry and Rowan.)

SURRY.

AN ACT FOR DIVIDING THE NORTHERN PART OF ROWAN COUNTY AND ERECTING A NEW COUNTY AND PARISH, BY THE NAME OF SURRY COUNTY AND ST JUDE'S PARISH.

(Passed in the year 1770.)

Surry county
erected.

1. *Be it enacted by the Governor, Council and Assembly, and by the authority of the same,* That from and after the first day of April next, the said county of Rowan be divided by a line, beginning at a point fortytwo miles north of Earl Granville's line, on Guilford county line ; thence running north to the Virginia line ; thence westwardly along the mountains to the ridge that divides the waters of Yadkin and the Catawba rivers ; thence along the said ridge to the northwest corner of Rowan county ; then east along Rowan county line to the beginning, be thenceforth erected into a distinct county and parish by the name of Surry county and St Jude's parish.

AN ACT FOR ANNEXING THE NORTH PART OF ROWAN TO THE COUNTY OF SURRY, AND THE FURTHER ESTABLISHING AND ERECTING THE PARISH OF DOBBS INTO A SEPARATE AND DISTINCT PARISH.

(Passed in the year 1773.)

1. Whereas the inhabitants of the north part of Rowan county labor under great inconveniences in attending the courts and other public meetings, at the court house of the said county; and as it would be much more convenient for them to attend public business in the county of Surry, are desirous of being annexed thereto; and as by an act, entitled, An act for erecting that part of Rowan county called Wachovia into a distinct parish, the tract of land, formerly in the county of Rowan, called and named Wachovia, belonging to the *unitas fratrum*, (or united brethren,) according to the known boundaries and limits thereof, was erected into a parish, distinct and separate from the parish of St Luke, in the said county, and called by the name of the parish of Dobbs, and were intended to hold, use and exercise the like authorities and powers, and possess and enjoy the same immunities and other privileges as other parishes in this province; and as by an act for dividing the northern part of Rowan county, and erecting a new county and parish, by the name of Surry county, and St Jude's parish, the dividing lines between the counties of Rowan and Surry ran through the said parish of Dobbs, by which means part of the said parish was left in each of the said counties, from which great inconveniences arise to the inhabitants of the said parish:

2. *Be it therefore enacted by the Governor, Council and Assembly, and by the authority of the same,* That from and after the passing of this act, the dividing line between the counties of Rowan and Surry shall begin at a point in the line dividing Rowan and Guilford counties, thirtysix miles north from the southeast corner of Rowan, thence running a due west course to the ridge dividing the waters of the Yadkin and Catawba rivers, which line is to be parallel to Earl Granville's south boundary line (excepting where the bounds of the parish of Dobbs interfere, which parish is hereby intended and declared to be included in Surry county) and by the said dividing ridge and the mountains to the Virginia line; and all that part bounded to the northward by the line before described to be marked, shall be, and is hereby annexed to, and made part of Surry county.

3. *And be it further enacted by the authority aforesaid,* That that part of Rowan county, and parish of Dobbs, which by the division of Rowan and Surry counties fell into Rowan county, be added to Surry county as aforesaid; so that all that original tract of land called Wachovia, or Dobb's parish, according to the known bounds and limits thereof, be made part of Surry county, and be and remain one entire parish as before, distinct and separate from the parish of St Jude, and any other parish whatever, and be entitled to use, hold, and exercise the like authorities and powers, and possess and enjoy the same immunities, and other privileges, as other parishes in this province.

AN ACT FOR THE BETTER REGULATION OF THE TOWN OF ROCKFORD, IN THE COUNTY OF SURRY, AND FOR ADDING PART OF WILKES TO SURRY COUNTY.

(Passed in the year 1792.)

(All, except the third section, unnecessary to be inserted.)

3. And whereas the inhabitants of Wilkes county, living on the head of Mitchell's and Fische's rivers, are much more convenient to the court house in the county of Surry than to Wilkes court house, and have requested their representatives in General Assembly to have them annexed to the county of Surry :

Part of Wilkes added to Surry county.

Be it therefore enacted, &c., That from and after the passing of this act, that all that part of Wilkes county that lies east of the following line, shall be, and the same is hereby annexed to the county of Surry ; beginning on the line that divides Wilkes and Surry counties, where the ridge that divides the waters of Mitchell's river from those of Elkin, thence along the said ridge to the extreme height of the Appalachian mountain, then along the extreme height of the said mountain to the Virginia line.

AN ACT FOR ADDING PART OF THE COUNTY OF STOKES TO THE COUNTY OF SURRY.

(Passed in the year 1796.)

Part of the county of Stokes added to Surry, &c.

1. *Be it enacted, &c.*, That from and after the passing of this act, all that part of the county of Stokes lying south of the Yadkin river, be and the same is hereby added to the county of Surry, to all intents and purposes whatsoever ; but nothing herein contained shall prevent any sheriff, or other collector of any public or county tax, from proceeding to the collection thereof, in the same manner and under the same restrictions as if this act had never passed, any thing to the contrary notwithstanding.

(See Rowan, Guilford and Stokes.)

TYRRELL.

AN ACT TO APPOINT THAT PART OF ALBEMARLE COUNTY, LYING ON THE SOUTH SIDE OF ALBEMARLE SOUND AND MORATTUCK RIVER, AS HIGH AS THE RAINBOW BANKS, TO BE A PRECINCT, BY THE NAME OF TYRRELL PRECINCT.

(Passed in the year 1729.)

1. Whereas that part of Albemarle county, lying on the south side of Albemarle sound, and Morattuck river, as high as the Rainbow banks, includes part of the several precincts hereafter named, viz : Chowan, Pasquotank, Bertie, and Currituck ; and whereas

the great width of the said sound, and also the great distance from the several precinct courts, renders it almost impracticable for the inhabitants of those parts to attend their courts as aforesaid :

2. *Wherefore be it enacted by His Excellency the Palatine, and the rest of the true and absolute Lords Proprietors of the province of Carolina, by and with the advice and consent of the rest of the members of this present General Assembly, now met at Edenton, for the northeast part of the said province, and by the authority of the same,* That that part of Albemarle county, lying on the south side of Albemarle sound, and Morattuck river, being part of the several precincts before mentioned, bounded to the westward by Thomas Hoskin's upper line, beginning at his upper corner tree, on Rainbow banks, on Morattuck river, and by a line running south from his outer corner tree, to the southward by the bounds of Albemarle county, to the eastward by the sound, between Roan-oak island, and Croatan, and to the northward by Albemarle sound and Morattuck river, as high as the Rainbow banks, in Morattuck river, shall be, and the same is hereby declared to be erected into a precinct, by the name of Tyrrell precinct, in Albemarle county, with all and every the rights, privileges, and other benefits and advantages whatsoever, which any other precinct in Albemarle county can or may have, use, or enjoy.

Tyrrell precinct erected.

(See Beaufort, Halifax, Martin, Hyde and Washington.)

WAKE.

AN ACT FOR ERECTING PART OF JOHNSTON, CUMBERLAND AND ORANGE COUNTIES, INTO A SEPARATE AND DISTINCT COUNTY, BY THE NAME OF WAKE COUNTY AND ST MARGARET'S PARISH.

(Passed in the year 1770.)

1. Whereas the large extent of the said counties of Johnston, Cumberland and Orange, renders it grievous and burthensome to many of the inhabitants thereof to attend the courts, general musters, and other public meetings therein :

2. *Be it enacted by the Governor, Council and Assembly, and by the authority of the same,* That from and after the twelfth day of March next after the passing of this act, the said counties of Johnston, Cumberland and Orange, be divided by the following lines, that is to say, beginning at Edgcomb line on Mocoson swamp, a mile above James Lea's plantation, running a direct line to Neuse river, at the upper end of John Beddingfield's plantation ; then to David Mimm's mill creek, between Mimm's mill and Tanner's old mill ; then the same course continued to the ridge which divides Cumberland and Johnston counties ; then a straight line to Orange line, at the lower end of Richard Hill's plantation, on Buckhorn ; then the same course continued five miles ; then to

Wake county erected.

the corner of Johnston county on Granville line ; then with the same line and Bute line to Edgcomb line, and along Edgcomb line to the beginning ; be thenceforth erected into a distinct county and parish, by the name of Wake county and St Margaret's parish.

(See Johnston, Cumberland, Orange and Franklin.)

WARREN.

AN ACT FOR DIVIDING BUTE COUNTY INTO TWO DISTINCT COUNTIES, AND FOR OTHER PURPOSES THEREIN MENTIONED.

(Passed in the year 1779.)

1. Whereas the large extent of the county of Bute renders the attendance of the inhabitants on the extreme parts of the said county to do public duties extremely difficult and expensive : For remedy whereof,

Bute divided.

2. *Be it enacted, &c.*, That from and after the passing of this act, the county of Bute shall be divided into two distinct counties, by a direct line from the Granville line to Halifax or Nash county line, as the case may be, leaving in each part or division an equal quantity of acres as near as can be ascertained.

Warren and Franklin counties erected.

3. And in order that the same may be ascertained with as much precision as possible, *Be it further enacted*, That Julius Nichols, William Duke, John Falcon, John Norwood, and Matthew Thomas, or a majority of them, be, and they are hereby appointed commissioners, to measure the lines of said county on every side, and to run the dividing line so as to make each respective division as convenient to the respective persons residing therein as possible, which said line when run by the commissioners, or a majority of them, shall be entered on the record of each county ; and all that part or division which lies north of said line and adjacent to Virginia, shall be a distinct county, by the name of Warren ; and all that part or division that lies south of said line shall be a distinct county, by the name of Franklin.

AN ACT TO ANNEX PART OF THE COUNTY OF GRANVILLE TO WARREN.

(Passed in the year 1736.)

Whereas, the annexing a part of the county of Granville to Warren will tend greatly to the ease and convenience of those inhabiting the same :

Part of Granville added to Warren.

1. *Be it therefore enacted*, That from and after the passing of this act, all that part of Granville county included within the fol-

lowing bounds, viz : Beginning at the point where the line of division between Warren and Granville counties shall touch the line of division between this State and the state of Virginia, and running thence west along the said line to Nutbush creek, thence up said creek as it meanders to the mouth of Anderson's swamp, thence up the said swamp to the fork, thence up the south fork of the said swamp to Stark's mill, thence by a line to be run due south until it shall touch the aforesaid line of division between Warren and Granville, be, and the same is hereby annexed to, and shall be and remain a part of the county of Warren.

(See Franklin, Nash and Halifax.)

WASHINGTON.

AN ACT FOR THE DIVISION OF WILKES AND TYRRELL COUNTIES.

(Passed in the year 1799.)

9. *Be it further enacted*, That from and after the passing of this act, the county of Tyrrell shall be divided in the following manner, to wit : Beginning at Bull point, thence running a direct line to the centre of the Indian swamp where the road crosses, from thence running a direct line to the west end of Lake Phelps, thence running a direct course to Hyde county line.

Washington
county erected.

10. *Be it further enacted, &c.*, And all that part of Tyrrell lying westwardly of said line shall be erected into a separate and distinct county, known by the name of Washington county.

AN ACT TO ANNEX PART OF TYRRELL TO WASHINGTON COUNTY.

(Passed in the year 1801.)

1. *Be it enacted, &c.*, That from and after the passing of this act, all that part of Tyrrell lying and being on the south and west side of Indian swamp, and the canal, beginning at the present dividing line of said counties, in such place as shall make a straight course to the centre of the Indian Swamp bridge, thence in a straight direction to the mouth of the canal, thence up said canal to Lake Phelps, thence a south course to Hyde county line, shall remain and constitute a part of Washington county.

Part of Tyrrell
added to Wash-
ington county.

(See Tyrrell and Hyde.)

WAYNE.

AN ACT FOR THE DIVISION OF DOBBS COUNTY AND OTHER PURPOSES THEREIN MENTIONED.

(Passed in the year 1779.)

1. Whereas the large extent of the county of Dobbs renders the attendance of the inhabitants of the extreme parts thereof, at the court house, to perform public duties difficult and expensive : For remedy whereof,

County divid-
ed.

2. *Be it enacted, &c.*, That from and after the passing of this act, the said county of Dobbs be divided, and that William Caswell, Charles Markland, William McKinnie, senior, Eiheldred Ruffin, and Benjamin Cobb, or a majority of them, be, and they are hereby appointed commissioners for running the dividing line, who are hereby directed to run the lines of the said county of Dobbs, so that they ascertain the middle part of said county, which when discovered, they shall run a line a north and south course, through the middle part of said county ; and then all that part of said county which lies eastwardly of the dividing line, shall continue and remain a distinct county, by the name of Dobbs ; and that all the other part shall be a distinct county, by the name of Wayne, with the same privileges and immunities as any other county within this State.

Wayne erected.

AN ACT TO ANNEX PART OF GLASGOW COUNTY TO WAYNE COUNTY.

(Passed in the year 1793.)

Part of Glas-
gow annexed
to Wayne
county.

Be it enacted, &c., That from and after the passing of this act, all that part of Glasgow county, lying, situated and bounded as follows, beginning where the Wayne county line crosses the south prong of Bear Creek, then down the said south prong to the fork, then up the north prong to where the Wayne county line crosses the same, and then with the said county line to the beginning, be added to and made a part of Wayne county.

(See Greene.)

WILKES.

AN ACT FOR ERECTING PART OF THE COUNTY OF SURRY, AND PART OF THE DISTRICT OF WASHINGTON, INTO A SEPARATE AND DISTINCT COUNTY BY THE NAME OF WILKES.

(Passed in the year 1777.)

1. Whereas the large extent of the county of Surry, and the district of Washington, renders it grievous and burthensome to many of the inhabitants thereof to attend the courts, general musters, and other public meetings therein ;

2. *Be it therefore enacted, &c.*, That from and after the fifth^{Wilkes erected.} day of February next, after the passing of this act, the said county of Surry and district of Washington be divided by the following lines ; beginning at a point twentysix miles due west of Surry court house, thence north to the Virginia line, thence west along the said line to the ridge that divides the waters of Holstein and New rivers, thence along the said ridge to Burke county line, thence eastwardly along the line that divides the counties of Surry and Burke to Rowan county line, thence along Rowan county line to a point due south of the beginning, thence north to the beginning, be erected into a distinct county, by the name of Wilkes.

AN ACT TO ANNEX PART OF BURKE COUNTY TO THE COUNTY OF WILKES.

(Passed in the year 1789.)

Whereas it is represented to this General Assembly that a part of Burke county, known by the name of Little River Settlement, is of much greater distance from the court house in said county, than from the court house in Wilkes, the inhabitants are under necessary inconveniences : For remedy whereof,

1. *Be it enacted, &c.*, That after the passing of this act, all that part of Burke county that lies north of the following line, be and the same is hereby annexed to the county of Wilkes; and that the said county line be established as follows, to wit: Beginning on Iredell county line at the Whetstone hill on the Spring road, and running up said road to the lower Little river, thence up said river to Holmes's creek, thence up said creek to Lambert's fork, thence up said fork to the head thereof, then a north course to the top of the Brushy mountain, being Wilkes line.

Part of Burke
added to
Wilkes county.

AN ACT TO ANNEX PART OF WASHINGTON TO WILKES COUNTY.

(Passed in the year 1792.)

Whereas a part of Washington county was by the cession act retained in this State, and although remaining in the said State, the inhabitants thereof are deprived of the benefit of the laws and government of the same, for want of being annexed to some other county : For remedy whereof,

Part of Wash-
ington county
added to
Wilkes.

1. *Be it enacted, &c.*, That from and after the passing of this act, Wilkes county shall be extended in the following manner, to wit: Beginning at the most southwardly part of Wilkes county line on Burke county line, and running due west to the dividing ridge between the waters of Watauga and Doe rivers, then along the extreme height of said ridge to the line of the ceded territory, then along the said line to the Virginia line, and along the Virginia line to the old line of Wilkes county ; and that all the land north and east of the aforesaid line shall be, and the same is hereby annexed to the said county of Wilkes ; any law, custom or usage to the contrary notwithstanding.

(See Surry, Iredell and Ashe.)

YANCEY.

AN ACT TO ERECT A NEW COUNTY BY THE NAME OF YANCEY.

(Passed in the year 1833.)

Whereas the large extent of country comprehended in the bounds hereafter described in the counties of Burke and Buncombe, renders the attendance of the inhabitants thereof, to do public duties, extremely difficult and expensive : 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 all that part of the counties of Burke and Buncombe, included within the following bounds, to wit : Beginning on the extreme height of the Black mountain ; running thence along said mountain to Ogle's improvement ; thence along the dividing ridge to Daniel Carter's fork field ; thence a direct course to the mouth of Big Ivy creek ; thence with the Warm Spring road, by Barnard's station, to the three forks of Laurel ; thence a direct line, so as to include James Allen's house, to the Tennessee line ; thence with said line to the county of Ashe ; thence with the line of said county to the Grandmother mountain ; thence a direct course to the extreme height of the Humpbacked mountain ; thence with the blue Ridge to where it intersects the Black mountain ; thence with the ridge of said mountain, to the beginning, be, and the same is hereby erected into a separate and distinct county, by the name

of Yancey, with all the rights, privileges and immunities of the other counties in this State.

AN ACT SUPPLEMENTAL TO AN ACT PASSED AT THE PRESENT SESSION OF THE GENERAL ASSEMBLY, ENTITLED "AN ACT TO ERECT A NEW COUNTY BY THE NAME OF YANCEY."

(Passed in the year 1833.)

9. *Be it further enacted*, That it shall be the duty of the county courts of Buncombe and Yancey, at their spring sessions, to appoint two commissioners respectively, who shall receive such compensation as the said courts shall determine, whose duty it shall be to ascertain and mark the dividing line between said counties, whenever the same shall be necessary.

10. *And be it further enacted*, That the said commissioners shall commence their survey at Daniel Carter's fork field and run a direct line from thence to Barnard's station ; from which point the line shall run along the old Warm Spring road to James Allen's road : and with his road, so as to include his house, to the Tennessee line ; any thing in the act to which this is supplemental to the contrary notwithstanding.

(See Burke and Buncombe.)

CESSIONS TO THE UNITED STATES.

TENNESSEE.

AN ACT FOR THE PURPOSE OF CEDING TO THE UNITED STATES OF AMERICA, CERTAIN WESTERN LANDS THEREIN DESCRIBED.

(Passed at the session of 1789.)

WHEREAS the United States in congress assembled have repeatedly and earnestly recommended to the respective states in the union claiming or owning vacant western territory, to make cessions of part of the same, as a further means, as well of hastening the extinguishment of the debts, as of establishing the harmony of the United States ; and the inhabitants of the said western territory being also desirous that such cession should be made, in order to obtain a more ample protection than they have heretofore received : Now this State being ever desirous of doing ample justice to the public creditors, as well as the establishing the harmony

of the United States, and complying with the reasonable desires of her citizens :

Persons empowered to execute deeds ceding to U. S. western lands.

1. *Be it enacted, &c.*, That the senators of this State in the congress of the United States,* or one of the senators and any two of the representatives of this State in the congress of the United States, are hereby authorized, empowered and required to execute a deed or deeds on the part and behalf of this State, conveying to the United States of America all right, title and claim which this State has to the sovereignty and territory of the lands situate within the chartered limits of this State, west of a line beginning on the extreme height of the Stone mountain, at the place where the Virginia line intersects it, running thence along the extreme height of the said mountain, to the place where Watauga river breaks through it, thence a direct course to the top of the Yellow mountain, where Bright's road crosses the same, thence along the ridge of said mountain between the waters of Doe river and the waters of Rock creek, to the place where the road crosses the Iron mountain, from thence along the extreme height of said mountain, to where Nolichucky river runs through the same, thence to the top of the Bald mountain, thence along the extreme height of the said mountain to the Painted rock, on French Broad river, thence along the highest ridge of the said mountain, to the place where it is called the Great Iron or Smoky mountain, thence along the extreme height of the said mountain, to the place where it is called Unicoy or Unaka mountain, between the Indian towns of Cowee and Old Chota, thence along the main ridge of the said mountain, to the southern boundary of this State, upon the following express conditions, and subject thereto ; that is to say,

Boundaries thereof.

Conditions of the cession.

First, as to expenses of the revolutionary war.

First. That neither the lands nor inhabitants westward of the said mountain shall be estimated, after the cession made by virtue of this act shall be accepted, in the ascertaining the proportion of this State with the United States in the common expense occasioned by the late war.

Second, as to military state grants.

Secondly. That the lands laid off, or directed to be laid off, by any act or acts of the General Assembly of this State, for the officers and soldiers thereof, their heirs and assigns respectively, shall be and enure to the use and benefit of the said officers, their heirs and assigns respectively ; and if the bounds of the said lands already prescribed for the officers and soldiers of the continental line of this State, shall not contain a sufficient quantity of lands fit for cultivation, to make good the several provisions intended by law, that such officer or soldier, or his assignee, who shall fall short of his allotment or proportion after all the lands fit for cultivation within the said bounds are appropriated, be permitted to take his quota, or such part thereof as may be deficient, in any other part of the said territory intended to be ceded by vir'ue of this act, not already appropriated. And where entries have been made agreeable to law, and titles under them not perfected by grant or otherwise, then and in that case the governor for the time being, shall, and he

Titles under entries to be perfected.

* The deed was executed the 25th Feb. 1790, see L. U. S. 2d v. p. 85.

is hereby required to perfect, from time to time, such titles, in such manner as if this act had never been passed; and that all entries made by, or grants made to all and every person and persons whatsoever, agreeable to law, and within the limits hereby intended to be ceded to the United States, shall have the same force and effect as if such cession had not been made, and that all and every right of occupancy and pre-emption, and every other right reserved by any act or acts, to persons settled on and occupying lands within the limits of the lands hereby intended to be ceded as aforesaid, shall continue to be in full force in the same manner as if the cession had not been made, and as conditions upon which the said lands are ceded to the United States. And further, it shall be understood that if any person or persons shall have, by virtue of the act, entitled, An act for opening the land office, for the redemption of specie and other certificates, and discharging the arrears due to the army, passed in the year one thousand seven hundred and eightythree, made his or their entry in the office usually called John Armstrong's office, and located the same to any spot or piece of ground on which any other person or persons shall have previously located any entry or entries, that then and in that case, the person or persons having made such entry or entries, or their assignee or assignees, shall have leave and be at full liberty to remove the location of such entry or entries to any lands on which no entry has been specially located, or any vacant lands included within the limits of the lands hereby intended to be ceded. *Provided*, that nothing herein contained shall extend or be construed to extend to the making good any entry or entries, or any grant or grants heretofore declared void by any act or acts of the General Assembly of this State.

The effect of legal entries and grants. Right of occupancy and pre-emption.

Locations on entries made in John Armstrong's office.

Proviso, as to grants declared void.

Thirdly. That all the lands intended to be ceded by virtue of this act, to the United States of America, and not appropriated as before mentioned, shall be considered as a common fund for the use and benefit of the United States of America, North Carolina inclusive, according to their respective and usual proportion in the general charge and expenditure, and shall be faithfully disposed of for that purpose, and for no other use or purpose whatever.

Third, as to the lands ceded being a common fund.

Fourthly. That the territory so ceded, shall be laid out and formed into a state or states, containing a suitable extent of territory, the inhabitants of which shall enjoy all the privileges, benefits and advantages set forth in the ordinance of the late congress for the government of the western territory of the United States; that is to say, whenever the congress of the United States shall cause to be officially transmitted to the executive authority of this State, an authenticated copy of the act to be passed by the congress of the United States, accepting of the cession of territory made by virtue of this act, under the express conditions hereby specified, the said congress shall at the same time assume the government of the said ceded territory, which they shall execute in a manner similar to that which they support in the territory west of the Ohio, shall protect the inhabitants against enemies, and shall never bar or deprive them or any of them, of privileges which the

Fourth, as to the territory ceded being formed into a state.

Proviso as to slavery.

people west of the Ohio enjoy. *Provided always*, that no regulations made or to be made by congress, shall tend to emancipate slaves.

Fifth, as to contributions towards the war expenses, see first condition.

Fifthly. That the inhabitants of the said ceded territory shall be liable to pay such sums of money as may, from taking their census, be their just proportion of the debt of the United States, and the arrears of the requisitions of congress on this State.

Sixth, as to payment of debts to the State.

Sixthly. That all persons indebted to this State, residing in the territory intended to be ceded by virtue of this act, shall be held and deemed liable to pay such debt or debts, in the same manner, and under the same penalty or penalties, as if this act had never been passed.

Seventh, as to the acceptance of the cession.

Seventhly. That if the congress of the United States do not accept the cession hereby intended to be made, in due form, and give official notice thereof to the executive of this State, within eighteen months from the passing of this act, then this act shall be of no force or effect whatsoever.

Eighth, as to laws in force.

Eighthly. That the laws in force and use in the State of North Carolina at the time of passing this act, shall be and continue in full force within the territory hereby ceded, until the same shall be repealed, or otherwise altered by the legislative authority of the said territory.

Ninth, as to taxing lands of non-residents.

Ninthly. That the lands of non-resident proprietors, within the said ceded territory, shall not be taxed higher than lands of residents.

Tenth, as to pre-emption between Tennessee and Pidgeon.

Tenthly. That this act shall not prevent the people now residing south of French Broad, between the rivers Tennessee and Pidgeon, from entering their pre-emptions on that tract, should an office be opened for that purpose under an act of the present General Assembly.

Jurisdiction, &c. of this State to remain till congress accept. (The cession was accepted by congress, see act of second April, 1790, see second v. L. U. S. p. 85.)

2. *And be it further enacted*, That the sovereignty and jurisdiction of this State, in and over the territory aforesaid, and all and every the inhabitants thereof, shall be and remain the same in all respects, until the congress of the United States shall accept the cession to be made by virtue of this act, as if this act had never passed.

LIGHT-HOUSES, &c.

AN ACT TO CEDE AND VEST IN THE UNITED STATES OF AMERICA, THE LANDS THEREIN MENTIONED, FOR THE PURPOSE OF BUILDING LIGHT-HOUSES.

(Passed at the session of 1790.)

Whereas William Williams, John Williams, Joseph Williams, William Howard, junior, and Henry Gerrish, of Carteret county, planters, have by deed bearing date the thirteenth day of September, in the year one thousand seven hundred and ninety, conveyed

to the governor of this State and his successors in office, for the use of the State, to erect a light-house thereon, one acre of land on Ocoock island, to be chosen out of their several unimproved lands situated on the said island, by commissioners appointed by an act of assembly passed at Fayetteville, in the year aforesaid, as by reference to the said deed and act had may more fully appear. And whereas Benjamin Smith, of Brunswick county, Esq., hath executed a deed to the person therein named, for the use of the State and the security of the navigation of Cape Fear, for ten acres of land situated on the Cape island, for the purpose of erecting thereon a light-house under the condition and limitations in said deed contained and expressed, by an act of assembly passed at Fayetteville, in the year one thousand seven hundred and eighty-nine, as by the same reference being thereto had, may more fully appear. And whereas the funds heretofore appropriated by this State to the erecting and finishing light-houses, are now vested in the congress of the United States, wherein the establishment and support of light-houses is placed by the constitution and laws thereof,

1. *Be it therefore enacted, &c.*, From and after the passing of this act, the lands as aforesaid, with their appurtenances, and the jurisdiction of the same, shall be ceded and vested in the United States, under the condition hereinafter expressed. Certain lands vested in the United States.

2. *And be it further enacted*, That the governor of this State is hereby empowered and required, forthwith to execute a deed or deeds, on the part and behalf of this State, to the United States, of all right, title and claim which this State hath to the lands as aforesaid, with their appurtenances, under the several acts of assembly, and deeds herein before recited and mentioned. Governor to execute a deed.

AN ACT TO CEDE TO THE UNITED STATES OF AMERICA CERTAIN LANDS, UPON THE CONDITION THEREIN MENTIONED.

(Passed at the session of 1794.)

Whereas the congress of the United States have passed an act to provide for the defence of certain ports and harbors in the United States, in which is comprised Cape Fear river and Occacock inlet, and also an act to erect a light-house on the head land of cape Hatteras ; and whereas it is expedient that the United States should have the exclusive jurisdiction of a sufficient quantity of land on which said forts and light-houses shall be erected : Preamble.

1. *Be it enacted, &c.*, That part of the public ground laid off by the commissioners of Smithville, for a fort on Cape Fear river, including part of the ground whereon fort Johnston formerly stood, with the exclusive jurisdiction thereof, shall be and the same is hereby ceded to the United States of America, under the condition hereinafter mentioned. Land ceded in Smithville.

2. *And be it further enacted*, That the exclusive jurisdiction of Beacon island, in the harbor of Occacock, and four acres of land Beacon island and cape Hatteras.

(a See 1813, c. 857, s. 2, 3.) at the head land of cape Hatteraz, (a) and also so much of the town of Smithville, adjoining fort Johnston, as may be found necessary for the said fort, not exceeding six acres, shall be ceded and stand vested in the United States, as soon as the proprietors of said lands shall convey the same to the United States.

Condition. (Time enlarged by subsequent acts.) 3. *And be it further enacted*, That the above mentioned lands are and shall be ceded to the United States, upon the express condition, that the fortifications, light-houses and beacons, for which the said lands are ceded, or to be ceded, shall be erected within three years, and be continued and kept up forever thereafter for the public use.

Restriction. 4. *And be it further enacted*, That nothing herein contained shall be so construed as to debar or hinder any of the officers of this State from serving any process, or levying executions within the limits ceded by this act to the United States, in the same manner and to the same effect as if this act had never been made.

AN ACT FOR CEDING TO THE UNITED STATES THE JURISDICTION OF CERTAIN LANDS ON SHELL CASTLE ISLAND, IN THE HARBOR OF OCCACOCK.

(Passed at the session of 1794.)

Whereas the congress of the United States have passed an act to erect a lighted beacon on Shell Castle island, in the harbor of Occacock, upon condition that this State will cede to the United States, a sufficient quantity of land for that purpose :

Jurisdiction of land on Shell Castle ceded to the United States. 1. *Be it enacted, &c.*, That the exclusive legislation and jurisdiction of so much land on Shell Castle island, as shall be purchased by the United States from the present proprietor or proprietors, for the purpose of erecting a lighted beacon thereon, is hereby ceded to the United States, and this legislature doth hereby consent to such purchase.

Not to debar state process, &c. 2. *And be it further enacted*, That this act shall not be construed to debar or hinder the process from any court or judge of this State from running within the boundaries of the lands so to be purchased ; nor to continue the authority of the United States over any part of the said lands, for any longer term than the said lighted beacon shall be kept up.

AN ACT TO AUTHORIZE AND EMPOWER CHRISTIAN JENNETT, THE GUARDIAN AND NEXT FRIEND OF WILLIAM JENNETT, MARY JENNETT, JABEZ JENNETT, AND AQUILLA JENNETT, OF THE COUNTY OF CURRITUCK, INFANTS UNDER THE AGE OF TWENTYONE YEARS, TO SELL AND CONVEY TO THE UNITED STATES OF AMERICA, FOUR ACRES OF LAND AT THE HEAD LAND OF CAPE HATTERAS, PART OF THE ESTATE IN COMMON OF THEM THE SAID WILLIAM, MARY, JABEZ AND AQUILLA, AND TO VEST IN THE UNITED STATES AN ABSOLUTE AND INDEFEASIBLE ESTATE IN FEE SIMPLE THEREIN.

(Passed at the session of 1800.)

Whereas the General Assembly of this State, by an act passed in their session at Newbern, in July, one thousand seven hundred and ninetyfour, entitled "An act to cede to the United States of America certain lands upon the conditions therein mentioned," reciting among other things, "that whereas the congress of the United States have passed an act to erect a light-house on the head land of cape Hatteras, and that whereas it is expedient that the United States should have the exclusive jurisdiction (together with other places therein mentioned) of a sufficient quantity of land, on which said light-house shall be erected," did enact, under the conditions and restrictions therein expressed, "that the exclusive jurisdiction, among other places therein mentioned, of four acres of land at the head land of cape Hatteras, shall be ceded and stand vested in the United States, as soon as the proprietors of the said lands shall convey the same to the United States;" and in their session at Raleigh, in November, one thousand seven hundred and ninetyseven, under the conditions therein expressed, did revive and continue in force so much of the before recited act as cedes, among other places, four acres of land at the head land of cape Hatteras.

And whereas it is represented to this General Assembly, that the four acres of land at the head land of cape Hatteras affording the most eligible site for a light-house, are in the seisin and possession, as tenants in common in fee, of William Jennett, Mary Jennett, Jabez Jennett, and Aquilla Jennett, all of the county of Currituck, infants under the age of twentyone years, to whom Christian Jennett, their mother, hath been duly appointed guardian; that the United States are willing to purchase the said four acres of land, and have offered for the same a fair and full price, to wit, at the rate of twelve and an half dollars per acre, amounting to fifty dollars; and that the said William, Mary, Jabez and Aquilla, who though not of full age, have sufficient judgment and discretion to estimate the value of this part of their property, are desirous, of their own free will and accord, and are further advised by their mother and guardian aforesaid, and others their relations and friends, to accept the liberal offer of the United States, and for that purpose have actually laid off by metes and bounds the four acres of land selected by their agent:

And whereas also it is highly important to the commercial inter-

ests of the United States of America, that a light-house should be erected on the most eligible site at the said head land of cape Hatteras as speedily as possible :

William Jennett & others empowered to sell four acres of land to the United States. Situation.

Be it enacted, &c., That the said William Jennett, Mary Jennett, Jabez Jennett, and Aquilla Jennett, be and they are hereby authorized, and fully empowered to sell and convey to the United States of America, four acres of land, situate, lying and being at or near the head land of cape Hatteras, in the county of Currituck, beginning at a cedar post at John Wallace and John Gray Blount's line, running thence east twelve poles and fourfifths of a pole to a cedar post at the corner of Wallace and Blount's line, thence north, binding on said line, fifty poles, to a cedar post at the corner of Wallace and Blount's and Thomas Farrow's lands, thence west, binding on Farrow's line, twelve poles and fourfifths of a pole to a cedar post, thence a direct course to the first station ; and to do, make, execute and suffer all and every such act and acts as shall or may be advised or devised to assure and secure to the said United States, an absolute and indefeasible estate in fee simple of, in and to the said four acres of land above described, with the premises and all and singular the appurtenances to the same belonging, or in any wise appertaining ; and that the said act and acts of them the said William, Mary, Jabez and Aquilla, shall be as effectual in law to conclude them, their heirs and assigns forever thereafter ; and the estate by them conveyed to the United States, shall be and enure to their use, benefit and behoof ; and they the said William, Mary, Jabez and Aquilla, shall be as effectually bound by any covenant or covenants they shall or may make and enter into with the said United States, touching and concerning the premises, as if they had arrived to full age, any law, usage or custom to the contrary notwithstanding.

Land to be secured to the United States.

AN ACT TO REVIVE, AMEND AND CONTINUE IN FORCE, CERTAIN ACTS FOR CEDING TO THE UNITED STATES THE LANDS THEREIN MENTIONED.

(Passed at the session of 1804.)

Preamble.

Whereas the times limited by the acts of one thousand seven hundred and ninetyfour, and one thousand seven hundred and ninetyeight, for erecting fortifications on the lands thereby ceded, are expired : and the general government is proceeding without delay, to finish a fort on Cape Fear river, upon the public ground laid off agreeably to law, by the commissioners of Smithville :

Ground laid off ceded to the United States.

1. *Be it enacted, &c.*, That the ground so laid off by the said commissioners, shall continue to be, and the same is hereby ceded to the United States of America, with the exclusive jurisdiction, except as is hereinafter excepted, of what is occupied by the fort and works, upon condition that the fort now building shall be completed on or before the first day of January, one thousand eight hundred and six.

And whereas also, it is expedient that the government of the

United States should be encouraged to fortify the ports or harbors of this State, at the general expense :

2. *Be it further enacted*, That in case of purchase from a citizen or citizens thereof by the national government, of any points, head lands or islands, which may be deemed necessary for the defence of any river or harbor in the State, that the said points, head lands, or islands, with the exclusive jurisdiction thereof, except as is hereinafter excepted, be, and the same is or are hereby ceded to the United States of America, on condition that fortifications be erected on such places, within three years from the time of the purchase, and be continued and kept up forever thereafter, for the public use and defence ; and that the quantity of ground in each case shall not exceed five acres.

Future purchases ceded to the United States for fortifications.

3. *And be it further enacted*, That no cession herein made shall be so construed as to prevent any officer of the State from serving process or levying executions agreeably to the laws thereof, within the limits ceded by, or in pursuance of this act, to the United States, in the same manner, and to the same effect, as if the same was never passed.

No cession to prevent state process from being served.

4. *And be it further enacted*, That all acts and clauses of acts coming within the meaning and purview of this act, or contrary thereto, shall be and the same are hereby repealed and declared void.

Former acts repealed.

AN ACT TO CEDE TO THE UNITED STATES THE JURISDICTION OF THE LAND THEREIN MENTIONED.

(Passed at the session of 1804.)

Whereas the congress of the United States, at their last session, passed an act, providing among other things for the erection of a light-house on or near the pitch of cape Lookout, in this State, and it is expedient that the United States should have exclusive jurisdiction of the land whereon the same is to stand :

Preamble.

1. *Be it enacted, &c.*, That the exclusive jurisdiction of four acres of land lying near the pitch of cape Lookout, in the county of Carteret, in this State, beginning at a cedar and running north eightythree degrees east, twentyfive poles and fourtenths of a pole to a live oak, then south seven degrees east, twentyfive poles and fourtenths of a pole to a post, then south eightythree degrees west, twentyfive poles and fourtenths of a pole to a post, and thence to the beginning, shall be and is hereby ceded to the United States as soon as they shall obtain the title thereof from the proprietor or proprietors.

Jurisdiction ceded.

2. *And be it further enacted*, That the said jurisdiction is ceded to the United States upon the express condition that a light-house shall be erected thereon, within five years, and be continued and kept up forever thereafter, for the public use.

Condition of the cession.

3. *And be it further enacted*, That nothing herein contained shall be construed to debar or hinder any of the officers of this

Not to debar the serving of state process.

State from serving any process or levying executions within the limits of which the jurisdiction is by this act ceded to the United States, in the same manner and to the same effect as if this act had never been made.

AN ACT TO CEDE TO THE UNITED STATES OF AMERICA THE JURISDICTION OF CERTAIN LAND FOR THE PURPOSES THEREIN MENTIONED, AND TO ALLOW FURTHER TIME TO THE GENERAL GOVERNMENT FOR FINISHING THE FORT AT OR NEAR THE MOUTH OF CAPE FEAR RIVER.

(Passed at the session of 1807.)

Preamble.

Whereas the harbor of Old Topsail inlet is at present in an unguarded state, and is generally nineteen feet water on the bar of said harbor, which renders it necessary that the United States should have the jurisdiction of certain land convenient thereto, in order that a fort may be erected thereon for the defence of the said port and harbor :

Jurisdiction of five acres at Old Topsail ceded to the United States for a fort.

1. *Be it enacted, &c.*, That five acres of land, in the county of Carteret, on the west side and adjoining Old Topsail inlet, be, and the same is hereby ceded to the United States of America, for the purpose of erecting a fort thereon for the defence of the said port and harbor.

Commissioners to survey and mark the same.

2. *And be it further enacted*, That Bryant Helen, Jeconias Pickens and James Stanton be, and they are hereby appointed commissioners to survey, lay off and mark the boundaries of the said five acres, and shall return a correct plan thereof to the office of the secretary of state ; and the said plan so by them returned, shall be deemed full and sufficient evidence of the boundaries aforesaid : *Provided*, that the land ceded by virtue of this act is subject to the following condition : That the said fort shall be erected thereon within three years from the passing thereof. *And provided also*, that nothing herein contained, shall be construed to debar any of the officers of this State from serving any process or levying executions within the limits ceded by this act, in the same manner and to the same effect, as if this act had never been passed.

Condition of the cession.

And whereas, from different causes and circumstances, the fort at Smithville is not perfectly completed, although it is so far done as to be ready for the mounting of cannon,

Fort at Smithville.

3. *And be it further enacted*, That all the grants and provisions heretofore made respecting the same, shall continue and be in full force : *Provided*, the said fort is finished within the year 1808 ; any law, usage or custom to the contrary notwithstanding.

AN ACT TO CONTINUE IN FORCE THE ACTS HERETOFORE PASSED, CEDING TO THE UNITED STATES OF AMERICA CERTAIN LANDS IN SMITHVILLE.

(Passed at the session of 1809.)

Whereas the time limited in the aforesaid acts for erecting fortifications in Smithville has expired,

1. *Be it enacted, &c.*, That the ground left out of the plan of Smithville by the commissioners, for the use of a fort and the erection of fortifications, agreeably to the act establishing said town, be, and the same is hereby ceded to the United States of America, with the exclusive jurisdiction thereof: *Provided*, that so much of the said ground as the commanding officer stationed by the United States at Smithville shall deem necessary to be kept free from intrusion, shall be enclosed within six months, and the fort and works deemed by the national government necessary and proper, be completed within seven years, from the 31st of December, 1809, and from thence be afterwards kept in such repair and order for the public defence, as to answer the purpose for which it was ceded: *And provided always*, that on failure of the national government to keep the said fort and works in such order and repair for two years, the said ground shall revert to this State.

A certain piece of land ceded to the United States.

2. *And be it further enacted*, That nothing herein contained shall be construed so as to prevent any officer of this State from serving process or levying executions and carrying them into full effect, agreeably to the laws of this State, within the limits hereby ceded, in the same manner as though this cession had never been made.

State officers to be allowed to serve process, &c.

AN ACT PROVIDING THE MEANS BY WHICH THE UNITED STATES MAY OBTAIN SITES FOR LIGHT-HOUSES AND FORTIFICATIONS WITHIN THIS STATE, AND FOR CEDING THE JURISDICTION THEREOF TO THE UNITED STATES.

(Passed at the session of 1813.)

1. *Be it enacted, &c.*, That whenever the United States shall desire to obtain sites within this State, for the purpose of erecting fortifications or light-houses thereon, and the owner or owners thereof be unknown or refuse to sell the same for a fair price, and shall by the attorney of the United States for the district of North Carolina, file with his excellency the governor of this State, a suggestion in writing setting forth their desire to obtain a site or sites for the erection of fortifications or light-houses, and describing in such suggestion the situation of such site and the name of the owner or owners if known; it shall be the duty of the governor forthwith to transmit a copy of such suggestion to one of the judges of the superior courts of law and equity of this State, who shall on receipt thereof issue a writ of *venire facias* to the sheriff of the county in which such site so required is situated commanding him

How to proceed in case owners of land are unknown or refuse to sell at a fair price.

to summon twentyfour freeholders of his county to appear on the premises on a day certain, from whom he shall draw by lot a jury of eighteen persons entirely unconnected with the owner or owners of such land, who being duly sworn by the sheriff or his lawful deputy, either of whom is hereby authorized and empowered to administer the oath to the said jurors truly and impartially to value, lay off and allot to the United States the site required, (which in no case shall exceed ten acres,) shall proceed to view, lay off, allot and value such site with the ground thereunto annexed under their hands and seals, in the presence of such sheriff or lawful deputy, who shall deliver the said writ of *venire facias* with his return thereon, and the report of the jury under their hands and seals within ten days thereafter to the public register of the county in which such site and lands lie, who shall forthwith register the same in the records of his office ; and thereupon the said United States shall on payment of the valuation to the party to whom such land belonged, or if such party refuse to accept the same, or be unknown, on payment of the same into the public treasury of this State, therein to await the order or demand of the rightful owner, be seized thereof for the purpose mentioned in this act. *Provided always and upon express condition*, that such site for the purpose of erecting light-houses and fortifications shall be so used within five years after the filing of such petition, and be used and occupied continually thereafter for such purposes ; otherwise such site shall revert to this State.

Proviso.

Former acts
ceding Beacon
island revived.

2. *Be it further enacted*, That so much of an act entitled " An act to cede to the United States of America certain land upon the condition therein mentioned," as cedes Beacon island and four acres of land at the head land of cape Hatteras, as relates to Beacon island, be and the same is hereby revived and declared to be in full force, any law to the contrary notwithstanding : *Provided always and upon express condition*, that a fort be erected upon said island by the United States within five years after the passing of this act and kept up forever thereafter for the use intended by the erection thereof.

The sovereignty,
&c. ceded to
the United
States.

3. *And be it further enacted*, That the full and entire sovereignty and jurisdiction in and over such land as may be laid out and paid for, for the purpose of erecting fortifications and light-houses under and by virtue of this act, on or before the first day of December, 1814, be ceded absolutely and entirely to the United States, who shall have, use and exercise exclusive jurisdiction, power and authority over the same and every part thereof.

State officers
shall serve pro-
cess on lands
so ceded.

4. *And be it further enacted*, That nothing herein contained shall be so construed as to debar or hinder any of the officers of this State from serving any process or levying executions within the limits which may be laid off and ceded by this act to the United States, in the same manner and to the same effect as if this act had never been made.

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

AN ACT TO CONTINUE IN FORCE THE THIRD SECTION OF AN ACT PASSED IN THE YEAR ONE THOUSAND EIGHT HUNDRED AND THIRTEEN, RESPECTING SITES FOR LIGHT-HOUSES AND FORTIFICATIONS.

(Passed at the session of 1814.)

Be it enacted, &c., That the provisions contained in the third section of an act, entitled “ An act providing the means by which the United States may obtain sites for light-houses and fortifications within this State, and for ceding the jurisdiction thereof to the United States,” so far as relates to the time of laying off and paying for land for the purposes in the said act expressed, be and the same is hereby declared to be in full force and operation, till the first day of December, one thousand eight hundred and eighteen.

AN ACT TO CEDE TO THE UNITED STATES OF AMERICA CERTAIN LANDS UPON THE CONDITIONS THEREIN CONTAINED.

(Passed at the session of 1817.)

Whereas the congress of the United States have passed an act to erect a beacon on Federal point near the New inlet on Cape Fear river, which beacon is already erected : and whereas, it is expedient the United States should have the exclusive jurisdiction of the land on which said beacon is erected. Preamble.

1. *Be it enacted, &c.*, That the exclusive jurisdiction of one acre of land at Federal point, near the New inlet on Cape Fear river, on which a beacon is already erected by the United States, shall be ceded, and is hereby invested in the United States, the said acre of land having been purchased by the United States aforesaid, upon condition that the beacon or a light-house be continued and kept up by the United States for the public use. Exclusive jurisdiction at Federal point given to the United States.

2. *And be it further enacted*, That nothing herein contained shall be so construed as to debar or hinder any of the officers of this State from serving any process or levying executions within the limits ceded by this act to the United States, in the same manner and to the same effect as if this act had never been passed. Proviso for the service of state process.

AN ACT CEDING THE JURISDICTION OF NORTH CAROLINA, OVER A CERTAIN PART OF OCRACOCK ISLAND, TO THE UNITED STATES.

(Passed at the session of 1822.)

1. Whereas, Jacob Gaskill, of the county of Hyde, and State of North Carolina, has, for a valuable consideration freely sold and conveyed to the United States of America, a certain piece or parcel of land, lying, situated, and being as follows, to wit : on the island of Ocracock, in the county of Carteret, and State aforesaid,

beginning at a cedar post on the north side of the road, Jacob Gas-kill's corner ; thence running a due north course along his line, twentyfive and a half poles, to a cedar post ; thence a due east course, twelve and three quarter poles, to a cedar post ; thence due south, twentyfive and a half poles ; thence due west to the first station ; and whereas, the United States have, by their agent, Joshua Taylor, Esq., solicited a cession of our jurisdiction over the same for the purpose of enabling them to construct and keep up a light-house thereon :

Transfer to the United States.

2. *Be it enacted, &c.*, That all right, title and jurisdiction which the State of North Carolina has or may have owned, claimed or exercised over the aforementioned territory, be, and the same is hereby forever relinquished and transferred to the United States of America, in as full and ample a manner as the same may have been owned, claimed or exercised by this State.

AN ACT TO CEDE TO THE UNITED STATES AN ISLAND, CALLED OAK ISLAND, OR SO MUCH THEREOF AS SHALL BE PURCHASED BY THE UNITED STATES FOR THE PURPOSE OF ERECTING A FORTIFICATION AT THE MOUTH OF CAPE FEAR RIVER.

(Passed at the session of 1825.)

Preamble.

Whereas the congress of the United States have passed an act to provide for the defence of the river Cape Fear, by the erection of proper fortifications on Oak island, at the mouth of said river ; and whereas it is expedient that the United States should have the exclusive jurisdiction of said island, on which said fortifications shall be erected ;

1. *Be it enacted, &c.*, That the exclusive jurisdiction of the island, called Oak island, lying and being at the mouth of Cape Fear river, or of so much thereof as shall be purchased by the United States for the purpose of erecting a fortification, shall be ceded to and stand vested in the United States, as soon as the proprietors of said island shall convey the same, or any part thereof to the United States for the purpose aforesaid.

Fortifications to be erected within ten years.

2. *Be it enacted*, That the above mentioned island, or such part thereof as shall be purchased aforesaid, is and shall be ceded to the United States upon the express condition, that the fortifications for which said land is ceded, shall be erected within ten years, and be continued and kept up forever thereafter for the public use.

Officers of this State not to be debarred serving process, &c. in the island.

3. *Be it enacted*, That nothing herein contained shall be so construed as to debar or hinder any of the officers of this State from serving any kind of process, or levying executions within the limits ceded by this act to the United States, in the same manner and to the same effect, as if this act had never been passed.

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

AN ACT TO CEDE TO THE UNITED STATES A CERTAIN TRACT OF LAND, CALLED BOGUE BANKS.

(Passed at the session of 1825.)

1. Whereas the congress of the United States have passed an act to provide for the defence of Old Topsail inlet, in this State, by the erection of proper fortifications at Bogue Banks; and whereas it has been suggested, that difficulties have been experienced by the United States in procuring proper titles to the site required; and whereas it is also expedient that the United States should have the exclusive jurisdiction of said site on which said fortifications shall be erected;

2. *Be it enacted, &c.*, That the exclusive jurisdiction of a certain tract of land, called Bogue Banks, butted and bounded as follows, to wit: Beginning at a point on the Atlantic shore, where a line due north and south will touch the extreme end of a line extending west two thousand seven hundred and ninetyfive yards, from a point at the extreme east end of Bogue Banks, thence from the beginning due north across Bogue Banks, four hundred and eighteen yards, till it meets the water's edge, thence eastwardly, following the shore along Fishing creek, and along the shore to the extreme eastern point of Bogue Banks, thence round said point, along the Atlantic ocean westwardly to the beginning, containing four hundred and five acres and fiftynine hundredths, more or less, shall be ceded, and stand vested in the United States, as soon as the proprietors of said land shall convey the same to the United States; or, in case the proprietors shall refuse to convey, or be unknown, then as soon as the said land shall be viewed, laid off, and valued as hereinafter shall be directed; saving and reserving to the present proprietors of the fisheries the right of fishing upon said banks, as heretofore exercised by them.

The United States to have exclusive jurisdiction of said Banks.

Right of fishing reserved to the present proprietors.

3. *Be it enacted*, That should the owner or owners of said land be unknown, or refuse to sell the same for a fair price, and the United States shall, by their attorney for the district of North Carolina, file with his excellency the governor of this State a suggestion in writing, setting forth their desire to obtain a site for the erection of fortifications on said lands, called Bogue Banks, and describing in such suggestion the situation of such site, and the name of the owner or owners, if known, it shall be the duty of the governor forthwith to transmit a copy of such suggestion to one of the judges of the superior courts of law and equity of this State, who shall, on receipt thereof, issue a writ of *venire facias* to the sheriff of the county in which such site so required is situated, commanding him to summon twentyfour freeholders of his county to appear on the premises, on a day certain, from which he shall draw by lot a jury of eighteen persons entirely unconnected with the owner or owners of such land, who being duly sworn by the sheriff or his lawful deputy, either of whom is hereby authorized and empowered to administer the oath to the said jurors, truly and impartially to value, lay off, and allot to the United States, the

In case the owner or owners of the land be unknown or refuse to sell the same at a fair price, its value to be fixed by eighteen freeholders.

405 59-100 acres of land aforesaid, under their hands and seals, in the presence of such sheriff or his lawful deputy, who shall deliver the said writ of *venire facias*, with his return thereon, and the report of the jury, under their hands and seals, within ten days thereafter to the public register of the county in which such site and lands lie, who shall forthwith register the same in the records of his office; and thereupon the United States shall, on payment of the valuation to the person or persons to whom such lands belong, or if such person or persons refuse to accept the same, or be unknown, on payment of the same into the public treasury of this State, therein to await the order or demand of the rightful owner, be seized thereof for the purpose mentioned in this act: *Provided always, and upon express condition*, that such site for the purpose of erecting fortifications, and the annexed land laid off and allotted as above mentioned, shall be so used within five years after the filing of such petition, and be used and occupied continually thereafter for such purposes; otherwise such site and annexed land shall revert to this State.

Proviso.

Officers of this State not to be debarred serving process, &c. in the cession.

4. *Be it enacted*, That nothing herein contained shall be so construed, as to debar or hinder any of the officers of this State from serving any process or levying executions within the limits ceded by this act to the United States, in the same manner and to the same effect, as if this act had never been made.

This act to take immediate effect.

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

AN ACT TO CEDE TO THE UNITED STATES A POINT OF MARSH ON THE SOUTH SIDE OF NEUSE RIVER, FOR THE PURPOSE OF ERECTING THEREON A LIGHT-HOUSE.

(Passed at the session of 1827.)

Preamble.

Whereas the United States in congress assembled, have passed an act, authorizing the erection of a light-house upon a point of marsh on the south side of Neuse river, and have, by deed, bearing date the twelfth of May, one thousand eight hundred twenty-seven, and which has been duly proven and registered in the proper office of Craven county, purchased of Joseph Nelson a small tract of land, hereinafter mentioned, for the purpose aforesaid; now, therefore,

Describes the land ceded.

1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same*, That all that piece or parcel of land, situate, lying and being in the county of Craven, beginning on the extreme point of marsh on the south side of Neuse river, running along the edge of the marsh on the sound side south sixtyfive degrees east forty poles, thence across the marsh south fiftyfive west sixtyeight poles to Neuse river, thence along the various courses of the river to the first station, containing by estimation eight acres, be ceded and vested in the United States of America; and the said United States shall and may have and exercise sole and exclusive jurisdiction over the

said territory and every part thereof, so long as they shall choose to hold and occupy it for the purposes herein specified : *Provided*, Proviso. that nothing herein contained shall be construed to prevent the proper officers of this State from executing any process, civil or criminal, within the limits of said territory.

AN ACT TO CEDE TO THE UNITED STATES AN ISLAND OF MARSH FOR THE PURPOSE OF ERECTING THEREON A LIGHT-HOUSE.

(Passed at the session of 1823.)

Whereas the United States in congress assembled, at their last Preamble. session, passed an act authorising the erection of a light-house on the south side of the Roanoke marshes, and the collector for the port of Edenton having selected one of the islands of marsh belonging to the State, called Jackson's island, 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 all that piece or parcel of marsh, called Jackson island, lying Cedes Jackson island, in Currituck, to the United States. and being in the county of Currituck, on the south side of the Roanoke marshes, containing by estimation thirty acres, be ceded to the United States of America ; and the said United States shall and may have and exercise exclusive jurisdiction over the said island of marsh, so long as they shall choose to hold and occupy it, for the purposes specified : *Provided*, Proviso. that nothing herein contained shall be construed to prevent the proper officers of this State from executing any process, civil or criminal, within the limits of said island.

AN ACT CEDING TO THE UNITED STATES JURISDICTION OVER CERTAIN LANDS AS SITES FOR LIGHT-HOUSES.

(Passed at the session of 1829.)

Whereas the United States have purchased of John Gray Preamble. Blount ten acres of land at Pamlico point, and have purchased of Pharoah Farrow forty acres at cape Hatteras ; and whereas the United States have erected, or are now erecting a light-house upon each of said tracts, and, for their better security, ask exclusive jurisdiction of said lands :

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 exclusive jurisdiction of the two tracts aforesaid be, Describes the lands hereby ceded. and is hereby ceded to and vested in the United States, upon the condition that the United States shall continue and keep up light-houses upon the said tracts ; the first of which tracts is situated, lying and being in the county of Beaufort, and bounded as follows, that is to say : Beginning at a cedar stake on the sound side of Pamlico point, forty poles southwardly of the point of Pamlico

marsh ; thence west forty poles to a cedar stake ; thence north forty poles to Pamlico river ; then with the various courses of the river and sound to the beginning, containing ten acres ; and the other tract aforesaid is situated, lying and being on cape Hatteras, in the county of Hyde, beginning at Elizabeth Williams's line on the Cape creek, and running with her line westwardly to a cedar stake, then southwestwardly with another of said Elizabeth's lines to Jacob Farrow's line, then east with said Jacob Farrow's line to the Cape creek, and from thence with said Elizabeth Williams's line to the beginning, containing forty acres.

2. *Be it further enacted,* That nothing herein contained shall be so construed, as to debar or hinder any of the officers of this State from serving any process or levying executions within the limits by this act ceded to the United States, in the same manner and to the same effect as if this act had never been passed.

CHEROKEE LANDS.

AN ACT IN RELATION TO THE CHEROKEE LANDS.

(Passed at the session of 1783.)

(The first four sections unnecessary to be inserted.)

Lands reserved
to the Cherokee
Indians.

5. *AND be it further enacted,* That the Cherokee Indians shall have and enjoy all that tract of land bounded as follows, to wit : Beginning on the Tennessee where the southern boundary of this State intersects the same nearest to the Chickamawga towns, thence up the middle of the Tennessee and Holstein to the middle of French Broad, thence up the middle of French Broad river (which lines are not to include any island or islands in the said river) to the mouth of Big Pidgeon river, thence up the same to the head thereof, thence along the dividing ridge between the waters of Pidgeon river and Tuckasejah river, to the southern boundary of this State ; and that the lands contained within the aforesaid bounds shall be and are hereby reserved unto the said Cherokee Indians and their nation forever ; any thing herein to the contrary notwithstanding.

Penalty for en-
tering, &c.
Cherokee
lands.

6. *And be it further enacted,* That no person shall enter and survey any lands within the bounds set apart for the said Cherokee Indians, under the penalty of fifty pounds specie for every such entry so made, to be recovered in any court of law in this State, by and to the use of any person who will sue for the same ; and all such entries, and grants thereupon, if any should be made, shall be utterly void.

Such entries,
&c. void.

All purchases
of said lands to
be void.

7. *And be it further enacted,* That no person, for any consideration whatever, shall purchase or buy, or take any gift or lease of

any tract of land within the said bounds, of any Indian or Indians, but all such bargains, sales, gifts and leases shall be, and are hereby declared to be null and void ; and the person so purchasing, buying, leasing or taking any gift of any land, of any Indian or Indians as aforesaid, shall moreover forfeit the sum of one hundred pounds specie for every hundred acres so purchased, bought, leased or taken as aforesaid, onehalf to the use of the State, and the other half to him that will sue for the same, to be recovered in the manner as aforesaid.

Penalty on persons purchasing, &c. the same.

8. And whereas the said Indians may receive injuries from people hunting, ranging or driving stocks of horses, cattle or hogs, on the lands hereby allotted them : For remedy whereof, *Be it enacted*, That it shall not be lawful for any person or persons whatsoever to hunt or range on the said lands, or to drive stocks of cattle, horses or hogs thereon, on pain of forfeiting the sum of fifty pounds specie for every such offence, together with such stock or stocks of horses, cattle or hogs, so driven ; to be recovered by any person who shall sue for the same in the manner aforesaid.

No persons to hunt, range, or drive stock on their lands.

Penalty.

AN ACT PRESCRIBING THE MODE OF SURVEYING AND SELLING THE LANDS LATELY ACQUIRED BY TREATY FROM THE CHEROKEE INDIANS.

(Passed in the session of 1819.)

1. *Be it enacted, &c.*, That as soon as may be convenient, after the passage of this act, the governor shall appoint two commissioners whose duty it shall be to superintend and direct the manner in which the said lands shall be surveyed and laid off into sections containing from fifty to three hundred acres of land : that they shall further cause the principal surveyor to note down in each of the said sections the quality of the land contained therein, stating that it is of the first, second or third quality ; and in all cases where it can be done with convenience, or the situation of the land will admit of it, such portion of the adjoining mountainous lands shall be included in each section as may be deemed sufficient for buildings, fences, fuel and other necessary improvements.

The governor to appoint commissioners.

2. *And be it further enacted*, That one principal surveyor of skill and integrity, shall also be appointed by the governor, with full power and authority to appoint as many deputy surveyors, chain carriers and markers, and to employ as many pack horses as may be thought necessary to complete the said survey in the most speedy and effectual manner ; for whose conduct the said principal surveyor shall be responsible. And the principal surveyor shall give bond and security in the sum of ten thousand dollars, payable to the governor for the time being, for the faithful discharge of the several duties imposed by this act. It shall further be the duty of the said principal surveyor, under the directions of the commissioners aforesaid, to cause each section by him survey-

Principal surveyor. His duties.

Deputy surveyors, chain carriers, &c.

ed, to be measured and marked, and the corners to be clearly designated on trees, or otherwise, with the number of each section.

Duty of surveyor in noting mines, &c.

3. *And be it further enacted,* That each surveyor shall note in his field book, the true situation of all mines, springs, mill seats, and water courses, over which the lines he runs shall pass, and those contiguous thereto : That the said field book shall be returned to the commissioners, who shall cause their principal surveyor therefrom to make a description of the whole lands surveyed, in three connected plats, one of which, when completed, shall be transmitted to his excellency the governor, one to the secretary's office, and the other lodged and recorded in the clerk's office of the county of Haywood.

Three plats of the whole land to be made, &c.

Site for public buildings.

4. *And be it further enacted,* That it shall be further the duty of the said commissioners to ascertain and fix upon some central and eligible spot for the erection of the necessary public buildings, whenever that section of the State may be erected into a separate county, and that four hundred acres surrounding the said site, shall be reserved for the future disposition of the legislature.

So much of the land only as will sell for fifty cents an acre to be laid off.

And no part of the land to be subject to entry.

5. *And be it further enacted,* That no portion of said lands shall be surveyed and laid off into sections, except so much thereof as in the estimation of said commissioners will sell for fifty cents per acre ; and that the residue of said lands shall be reserved for the future disposition of the legislature, and that no part or portion thereof shall be liable to be entered in the entry taker's books for the county of Haywood, or elsewhere, until provision be made by law for the disposal thereof ; and entries heretofore made, or grants obtained, or which may hereafter be made, otherwise than as provided by this act, be and the same are hereby declared to be utterly void and of none effect.

Governor to give notice of sale, &c.

6. *And be it further enacted,* That the governor on receipt of the plats and drafts heretofore provided for in this act, shall give notice by proclamation in all the newspapers published in the city of Raleigh, and in such other papers in the adjoining states of South Carolina, Georgia, Virginia and Tennessee, of the time and place of sale, as he may deem advisable, which in no case shall be less than two months from the date of the notice, that the said lands shall be exposed at public sale to the highest bidder at Waynesville, in the county of Haywood, under the superintendence of the said commissioners ; and the sale shall be kept open for the space of two weeks and no longer.

Terms of sale.

7. *And be it further enacted,* That the said commissioners shall require of each and every purchaser to pay down, at the time of sale, one eighth part of the purchase money, and shall take bond and security for the payment of the balance in the following instalments, viz : The balance of one fourth at the expiration of twelve months, one other fourth at the expiration of two years, one other fourth at the end of three years, and the remaining fourth at the end of four years ; and in no instance shall a grant or grants issue to the purchaser, until the whole of the purchase money be paid in full ; and in case of failure to pay the whole when due, and the money cannot be obtained by a judgment on

their bond, then and in that case, the land shall revert to the State, and be liable again to be sold for the use and benefit of the State.

8. *And be it further enacted,* That if during the time of said sale, any section of land noted to be of the first quality, shall not command in the market the sum of four dollars per acre, the said commissioners shall postpone the sale of such section until further directed by the legislature; and in like manner lands of the second quality not commanding three dollars, and lands of the third quality not commanding two dollars, shall be postponed as aforesaid, and report thereof made to the governor.

Minimum of price.

Sales postponed.

9. *And be it further enacted,* That the said commissioners shall each receive per day, during the time of their performing the said duties, the sum of five dollars, the principal surveyor the sum of five dollars, and his assistants each the sum of four dollars; each chain carrier and marker, the sum of two dollars, and each man with a pack horse, two dollars and fifty cents; they and each of them bearing their own expenses.

Compensation to commissioners, surveyors, &c.

10. *And be it further enacted,* That the said commissioners shall give to each purchaser a certificate describing the land by him purchased, with a plat of the lot and number of the section conformable to the plan returned to the secretary's office; upon the production of which and proof of the payment of the purchase money made to the secretary by the treasurer's receipt, it shall be the duty of said secretary to issue a grant to the purchaser for the said lot of land in the usual and common form.

When grants are to be issued.

11. *And be it further enacted,* That each commissioner shall give bond and security, payable to the governor and his successors in office, in the sum of eighty thousand dollars, for the faithful discharge of the several duties imposed on them by this act.

Commissioners to give bond.

12. *And be it further enacted,* That the bonds to be taken by the said commissioners for securing the balance of the purchase money, shall be by them lodged with the treasurer of the State, and they shall take from him duplicate receipts, one of which shall be filed with the comptroller, who shall thereupon raise an account with the obligors.

Bonds for purchases to be filed with the Treasurer.

13. *And be it further enacted,* That the said commissioners shall render an account upon oath to the comptroller, of all moneys by them received from purchasers on the several days of sale, and pay the amount thereof into the treasurer's office, at as early a period as possible after the said sales are over.

Commissioners to make return to the comptroller, &c.

14. *And be it further enacted,* That until the said section of country is laid off into a separate and distinct county, it shall be and remain subject to the jurisdiction of the county of Haywood, and form a part thereof.

Temporary jurisdiction of the country.

15. *And be it further enacted,* That it shall be the duty of the governor to instruct the said commissioners as to the money or notes of banks other than those of this State, which shall be received in payment of said land.

Kind of money to be received.

16. *And be it further enacted,* That if any purchaser shall be disposed to pay the whole of the purchase money or any particular instalment in advance, the treasurer or the commissioners are

Discount of eight per cent. for prompt payment.

authorized to receive the same, and he shall be allowed a discount at the rate of eight per centum per annum on such advancement.

Advance of three thousand dollars to be made.

17. *And be it further enacted,* That the governor be and he is hereby authorized to draw on the treasurer for the sum of three thousand dollars, to be paid to the commissioners to enable them to commence the said business, and by them to be applied towards paying charges and expenses incident to the performance of the duties enjoined on said commissioners, and for which the said commissioners shall give the State credit on the final settlement of their accounts.

Occupants may be ejected by the purchasers.

18. *Be it enacted,* That each and every purchaser of any section or sections of said land, having obtained a certificate from the commissioners as heretofore provided in this act, his heirs and assigns, shall have full power and authority to institute an action of ejectment in the name of the State of North Carolina, against any person or persons, who may be in possession of such section of land, and shall, on application, refuse to deliver up quiet and peaceable possession thereof. And the certificate of the commissioners to such person shall be evidence of title and right to sustain said action, unless it shall appear to the court before whom such action is tried, that said purchaser has forfeited his right under said purchase as in this act provided. *Provided,* the said purchaser shall give bond and security for the payment of all costs accruing in said action in case of his failure to recover.

AN ACT TO AUTHORIZE THE GOVERNOR OF THIS STATE TO DIRECT THE SALE OF THE LANDS LATELY ACQUIRED BY TREATY FROM THE CHEROKEE INDIANS WHICH ARE YET UNSOLD.

(Passed at the session of 1820.)

Governor to appoint commissioners to sell the lands.

1. *Be it enacted, &c.,* That the governor of this State be, and he is hereby authorized and empowered, to direct the sale of so much of the lands lately acquired by treaty from the Cherokee Indians as have been surveyed and yet remain unsold, at such time and place as he may deem proper, under the direction and superintendence of two commissioners, to be by him appointed for that purpose, after having first advertised the same for one month in the public newspapers published at this place, which sale shall be kept open for one week and no longer.

Commissioners to give bond.

2. *And be it further enacted,* That the commissioners who may be appointed by authority of this act, shall each give bond and security in the sum of twentyfive thousand dollars, payable to the governor for the time being, for the faithful performance of the duties of their appointment, and that they shall receive the same compensation for their services per day, as was allowed the commissioners appointed by virtue of an act passed the last session of this General Assembly, entitled "An act prescribing the mode of surveying and selling the lands lately acquired by treaty from the Cherokee Indians."

3. *And be it further enacted*, That the provisions of the before recited act, contained in the seventh, eighth, tenth, twelfth, thirteenth, fifteenth and eighteenth sections, are hereby declared to be in force, and applicable to the commissioners and sale which may be held agreeably to this act. Certain sections in a prior act to be in force.

4. *And be it further enacted*, That the persons that have already settled on said lands, waiting for the sale thereof, shall be entitled to the benefit of the crops that they have planted previous to the sale above recited. Occupants entitled to their crops.

5. *And be it further enacted*, That if any purchaser shall be disposed to pay the whole of the purchase money, or any particular instalment, in advance, the treasurer or the commissioners are authorized to receive the same, and he shall be allowed a discount at the rate of eight per cent. on such advancement. Discount allowed on payments in advance.

AN ACT PROHIBITING WHITE MEN FROM CULTIVATING THE LANDS RESERVED TO THE CHEROKEE INDIANS.

(Passed at the session of 1820.)

Be it enacted, &c., That from and after the passing of this act, it shall not be lawful for any white man to buy, rent, lease or cultivate any of the lands reserved to the Cherokee Indians by the late treaties in eighteen hundred and seventeen, and eighteen hundred and nineteen, nor to act as agent, attorney or trustee, in buying, renting, leasing or cultivating such lands: and any person violating the provisions of this act, shall forfeit five hundred dollars, to be recovered in any court having cognizance of the same, the one half to any person suing for the same, and the other half to the State: *Provided nevertheless*, that this act shall not extend or be so construed as to prevent Richard Walker, or the Big Bear, from managing the lands allotted to them as they may think proper. Fine for disobedience. Proviso.

AN ACT TO AMEND AN ACT, PASSED AT THE LAST SESSION OF THE GENERAL ASSEMBLY, ENTITLED "AN ACT PROHIBITING WHITE MEN FROM CULTIVATING THE LANDS RESERVED TO THE CHEROKEE INDIANS."

(Passed at the session of 1821.)

Be it enacted, &c., That any white man who shall have purchased from this State, at the sales made by commissioners under the acts of the General Assembly, lands reserved for certain Cherokee Indians, may purchase or extinguish the right of the Indians, to whom said lands were reserved, to the land so sold by the authority of this State; any thing in the above recited act to the contrary notwithstanding. White men may extinguish Indians' right to lands.

2. *Be it enacted*, That the penalty incurred by any persons, in buying, renting, leasing or cultivating lands from Indians, which lands such persons had previously purchased from this State, as hereinbefore mentioned, is hereby remitted and discharged. Penalty for buying, &c. from Indians as remitted.

AN ACT CONCERNING THE LANDS LATELY OBTAINED BY TREATY FROM THE CHEROKEE INDIANS.

(Passed at the session of 1821.)

Governor to direct the sale of Cherokee lands.

1. *Be it enacted, &c.*, That the governor be, and he is hereby authorized to direct the sale of so much of the lands acquired from the Cherokee Indians as have been surveyed, and yet remain unsold, at such time and place as he may deem proper, under the direction of a commissioner to be by him appointed for that purpose, after having first advertised the same for at least one month, in the papers of this city, in the Western Carolinian, of Salisbury, and in such other papers as he may think proper; which sale shall be kept open for two weeks and no longer.

Commissioner to give bond in thirty thousand dollars. His compensation.

2. *Be it enacted*, That the commissioner so appointed shall give bond with security in the sum of thirty thousand dollars, payable to the governor, for the faithful performance of his duty, and that he receive as a compensation for his services the sum of five dollars for each and every day he attends said sale, and the sum of four dollars for every thirty miles from his residence to the place of sale, and back again; and should it be deemed necessary for him to attend at Raleigh for the settlement of his accounts, he shall receive the sum of three dollars for every thirty miles to and from the same.

Certain sections continued in force.

3. *Be it enacted*, That the provisions of the seventh, tenth, twelfth, thirteenth, sixteenth and eighteenth sections of an act, passed in the year one thousand eight hundred and nineteen, entitled "An act prescribing the mode of surveying and selling the lands lately acquired by treaty from the Cherokee Indians," be, and the same are hereby continued in force.

Commissioner to postpone sale if the lands do not command the proper prices.

4. *Be it enacted*, That, if during the sale, any section of land noticed to be of the first quality, shall not command in market the sum of three dollars, and in like manner lands of second quality not commanding two dollars, and lands of third quality not commanding one dollar and fifty cents, the commissioner shall postpone the sale of such lands until further directed by the legislature; and where the commissioner discovers that any section of land is likely to bring less than its value, either for the want of competition, or from a combination among the bidders, he shall bid off the same for the State.

Commissioner to ascertain what lands are in dispute between Indians and persons claiming under this State.

5. *Be it enacted*, That the commissioner aforesaid shall ascertain what sections or pieces of lands are now in dispute between the Indians claiming under the treaties and the persons holding under the State, and report the same to the treasurer, who, upon this or any other correct information, shall forbear to proceed in the collection of the bonds due from such persons until the controversy shall be decided by the proper tribunal; and in the event the persons holding under the State are ejected by the Indians, then, upon due proof of that fact, the treasurer shall refund to such persons ejected whatever sums of money they may

have paid to the State, with interest thereon from the time of such payments, and further deliver over to them the bonds held for the balance of the purchase money.

6. *Be it enacted*, That the commissioner appointed under this act shall, before the days of sale aforementioned, proceed and locate the site for a town on the four hundred acres of land reserved for that purpose by the fourth section of an act passed in eighteen hundred and nineteen, entitled "An act prescribing the mode of surveying and selling the lands lately acquired by treaty from the Cherokee Indians;" and he shall further survey and mark out the lots of said town, not exceeding twenty in number of one acre each, including a public square in the most suitable place; and the said commissioner, at the time of selling the lands shall expose to public sale, on the same terms and conditions, a number not exceeding eight lots, selecting such ones as he may deem most advisable to sell; *Provided*, that not more than two of the corner lots next to the public square shall be sold, and the proceeds of the sale of said lots shall be returned to the treasurer, subject to the future disposition of the legislature.

Commissioner to locate a site for a town.

7. *Be it enacted*, That the town located and laid out as aforesaid, shall be known by the name of Franklin, in honor of Jesse Franklin, the late governor of this State.

AN ACT TO PROVIDE FOR THE SALE OF THE LANDS LATELY ACQUIRED BY TREATY FROM THE CHEROKEE INDIANS, WHICH HAVE BEEN SURVEYED AND REMAIN UNSOLD.

(Passed at the session of 1822.)

1. *Be it enacted, &c.*, That the governor be, and he is hereby authorized to direct the sale of so much of the lands lately acquired by treaty from the Cherokee Indians, as have been surveyed and remain unsold, at such time and place as he may deem proper, under the direction of a commissioner to be by him appointed for that purpose, after having advertised the same at least one month, in the papers of this city, the Western Carolinian, of Salisbury, and such other papers as he may think proper; which sale shall be kept open one week, and no longer.

Month's notice of sale by advertisement.

2. *Be it enacted*, That if, during the sale, any section of land noticed to be of the first quality, shall not command in the market the sum of three dollars, and in like manner, lands of the second quality not commanding the sum of two dollars, and lands of the third quality not commanding one dollar, the commissioner shall postpone the sale of such lands; and when the commissioner discovers that any section of land is likely to bring less than its value, either for want of competition, or from combination among the bidders, he shall bid off the same for the State.

If lands do not bring their value, sale to be postponed.

Commissioner to bid for the State in certain cases.

3. *Be it enacted*, That the provisions of the second section of an act, passed at the last session of the General Assembly of this State, entitled An act concerning the lands lately acquired by trea-

Certain sections of the act of last year to be continued in force.

ty from the Cherokee Indians, and the provisions of the seventh, twelfth, thirteenth, sixteenth and eighteenth sections of an act, passed in the year one thousand eight hundred and nineteen, entitled An act prescribing the mode of surveying and selling the lands lately acquired by treaty from the Cherokee Indians, be, and the same are hereby continued in force.

AN ACT RESPECTING THE RESERVATIONS OF CERTAIN INDIANS
IN THE LANDS LATELY ACQUIRED BY TREATY FROM THE CHEROKEE NATION.

(Passed at the session of 1823.)

The governor to appoint two commissioners to meet and contract with said Indians.

1. *Be it enacted, &c.*, That two commissioners be appointed by the governor of the State, whose duty it shall be, at some time before the next session of the General Assembly, to meet at some convenient place in the county of Haywood, and inquire into the titles of certain tracts of land claimed by individuals of the Cherokee nation of Indians, under certain provisions made in the treaties concluded between the United States and the said nation, in the years one thousand eight hundred and seventeen, and one thousand eight hundred and nineteen; and that said commissioners be, and they are hereby authorized to contract with any of the said Indians, or with any agent or agents duly authorized by them, for the purchase of the tract or tracts to which the said commissioners shall believe the said Indians, or any of them, shall have a good and valid title under the provisions of the said treaties; such contract to be made subject to the further ratification of the General Assembly.

To ascertain whether said Indians have sold their titles to individuals.

2. *Be it enacted*, That it shall be the duty of the said commissioners to ascertain the fact, if practicable, whether the said Indians, or any of them, have sold their titles to individuals, and the names of those individuals, and report the same to the next General Assembly.

Commissioners to report to the next General Assembly.

3. *Be it enacted*, That it shall be the duty of the said commissioners to report to the General Assembly, at their next session, their proceedings under the foregoing section, and whether the said Indians will consent to sell the said lands; if so, an account of each contract they may enter into with the said Indians, and such contracts, when ratified by the General Assembly, shall be binding on the State, and not otherwise.

Pay of the commissioners.

4. *Be it enacted*, That the said commissioners shall be allowed the sum of four dollars for every day they shall be necessarily employed in the discharge of the duties hereby imposed, estimating every thirty miles they shall travel to and from said place of meeting, as one day.

Course to be taken where the Indian title is adjudged not good.

5. *Be it enacted*, That whenever the commissioners appointed under this act, shall adjudge that the title claimed by any Indian to a reservation under the above mentioned treaty is not a good and valid title, where the land so claimed has been sold under the authority

of the State, and the purchaser has been sued or shall be sued for the same, it shall be the duty of the governor to employ some able attorney to appear in behalf of such purchaser, and defend the title conveyed by the State : *Provided*, that nothing herein contained shall have the effect, or be construed to validate or confirm the title of the purchasers from the commissioners of this State, nor of any persons holding under such purchasers.

AN ACT FOR THE RELIEF OF SUCH PERSONS AS BECAME PURCHASERS OF THE CHEROKEE LANDS, SOLD UNDER THE AUTHORITY OF THIS STATE.

(Passed at the session of 1823.)

1. *Be it enacted, &c.*, That a stay of proceedings on the bonds given by the purchasers of the lands, commonly called the Cherokee lands, which were sold by this State in the years 1820 and 1821, and which are at present due, be, and the same is hereby given, from and after the passing of this act until the thirtyfirst day of October, which shall happen in the year 1824.

A stay of proceedings on the bonds due for lands until October 31, 1824.

1. *Be it enacted*, That the public treasurer be, and he is hereby authorized and directed to receive from all purchasers of the above description, who shall tender payment on or before the day above fixed and mentioned, the one-eighth part of the instalments with the interest accrued thereon, which are now due on their bonds, where, by the terms of the bonds, the onefourth is required ; and upon payment of the same, the public treasurer is hereby fully authorized and directed to postpone the remaining parts of such instalments for twelve months thereafter ; and the like course shall be pursued by him in regard to all other of the bonds given by the purchasers of said lands, which shall become due hereafter : *Provided*, that none of the purchasers above mentioned shall be entitled to this indulgence who shall fail or neglect punctually to perform the conditions of it ; but the bond or bonds of each and every person so failing, shall immediately after such failure, be proceeded on as though this act had never been passed : *Provided always*, that interest on all the payments shall continue to run in like manner as if this act had not passed : *And provided further*, that no postponement shall be made in virtue of this act in any case where the sureties of the principal debtor, or any of them, should make objections against such postponement, and signify the same in writing to the public treasurer.

The treasurer to receive one-eighth of purchase money, instead of one-fourth.

This indulgence not to be extended to unpunctual purchasers.

Interest to continue to run.

3. *Be it enacted*, That any purchaser of any tract of said land, or the heirs of such purchaser, may assign and transfer his or her right under the certificate of his purchase, granted by the commissioners to such purchaser, by deed for good or valuable consideration ; and such deed, being proved or acknowledged and recorded, as other deeds of land are by law required to be proved or acknowledged and recorded, and such deed being filed in the office of the secretary of state, and a certificate from the treasurer of the State that the purchase money of said land has been paid to the

Purchasers may transfer their rights.

State, it shall be lawful for the secretary of state to issue a grant for such land to the assignee aforesaid, expressing in such grant that the said grant is made to the said grantee, by virtue of the assignment from the original purchaser.

AN ACT TO CARRY INTO EFFECT A CONTRACT ENTERED INTO BY BENJAMIN ROBINSON AND WILLIAM ROBARDS, COMMISSIONERS ON THE PART OF THE STATE, WITH CERTAIN INDIANS OF THE CHEROKEE NATION, IN THE SAID CONTRACT NAMED.

(Passed at the session of 1824.)

Contract ratified and confirmed.

1. *Be it enacted, &c.*, That the contract entered into between Benjamin Robinson and William Robards, commissioners for that purpose, appointed in conformity with the act of one thousand eight hundred and twentythree, on the one part, and the following heads of Cherokee Indian families, to wit: Jack, Sharp-fellow, Jacob, Oo-lah-nottee, Johnson, Connaught, Bag, or Sap-Sucker, Club, Wha-ya-kah, or Grass Grower, Old Nanny, Eu-noch, or Trout by Skilkee, Am-ma-cher, or Water going under the Ground, Tau-neh, for self and heirs, John, Bear going-in-the-hole, Too-naugh-he-all, Beaver-toter, John Quickly, Fence, Parch-corn-flour, Jenny, for self and heirs of Skekin, Ca-tee-hee, Yellow-Bear, Sally Little-deer, for self and heirs, Jenny, Wolf, W. Reid, John Ben, Thomas, Cul-sow-wee-hee, Old Mouse, Panther, Backwater, Yono-na-gis-kah, Eu-che-lah, Tegen-tos-ah, Tom, for self and Aquallah, widow and heir of Too-lah-notah, and Gideon F. Morris, on the other part; which contract was executed at Franklin, in the county of Haywood, on the twentieth day of August, A. D. 1824, witnessed by Humphrey Posey, Joshua Robards, Saul Smith and G. Stephens, be, and the same is hereby ratified and confirmed, except as to the claim of Gideon F. Morris, Tau-neh, and the heirs of Ah-leach, Jenny, and the heirs Skekin, Sally Little-Deer, and the heirs of Little-Deer, Aqual-lah and Tom, widow and heir of Too-lee-noo-tah, Parch-corn-flour, Jenny, Ca-tee-hee, Yellow Bear, Cul-sow-wee-he, Old Mouse and Panther, and as to whom the said contract and treaty is not ratified and confirmed.

Except as to the claim of Morris and others.

Contract to be enrolled, and printed with the laws of the State.

2. *Be it enacted*, That the said contract be enrolled and printed with the laws of the State, and that the secretary of state cause to be registered in a suitable book, to be procured for that purpose, the certificates and surveys of the parties, together with the memorandum of evidence, and safely keep the originals, and all other papers relative to the contracts, amongst the records of his office.

Money set apart for carrying the contract into effect.

3. *Be it enacted*, That the sum of nineteen thousand, nine hundred and forty dollars from any unappropriated money in the treasury, be, and the same is hereby set apart for the purpose of carrying the said contract into effect.

Commissioners to be appointed

4. *Be it enacted, &c.*, That two commissioners be appointed by the governor, who, upon the governor's warrant, shall draw from

the treasury the sum of nineteen thousand, nine hundred and forty dollars, set apart in the third section of this act, for the purpose of carrying the aforesaid contract into effect, whose duty it shall be to proceed to the town of Franklin, in the county of Haywood ; and on notification to the parties, to meet them at that place, between the twentieth day of April and the second day of May next, they shall pay the said parties, respectively, the sums stipulated to be paid them by the said contract.

5. *Be it enacted*, That the commissioners to be appointed as aforesaid, on the payment of the money, as in the fourth section of this act provided, shall take a release from the parties against all suits, and take conveyances from the several persons as to whom the said contract is ratified, of all their title and claim to their said reservations within this State, in such form as shall be good and sufficient to convey the same, and cause the same to be proved and registered in the proper office of Haywood county ; and after the same shall have been registered, that they cause the same to be transmitted to the governor.

6. *Be it enacted*, That the said contract, after it shall have been enrolled, shall be delivered by the secretary of state to the commissioners, to be appointed as aforesaid, whose duty it shall be to carry the same into the county of Haywood, and cause the same to be proved and registered in the proper office of said county ; and after the same shall have been registered, that they cause the same to be returned to the governor.

7. *Be it enacted*, That the commissioners to be appointed as aforesaid, shall, upon the governor's warrant, draw from the treasury the sum of five hundred dollars, and that with the money thus drawn, they liquidate and pay certain costs of suit, which the State in good faith is bound to pay under the aforesaid contract, and that they take the proper acquittances.

8. *Be it enacted*, That the treasurer pay the money, as in the foregoing section provided, from any money in the treasury not otherwise appropriated.

9. *Be it enacted*, That the commissioners to be appointed as aforesaid shall enter into bond to the governor, with sufficient security, in the sum of twentyfive thousand dollars, for the faithful discharge of the duties as in this act prescribed, and that they shall receive for their services at the rate of five dollars each per day, during the time of performing the duties required by this act.

10. *Be it enacted*, That if by death, refusal or other cause, either of said commissioners shall fail to act, the other commissioner shall be authorized to perform the duties of commissioners under this act.

11. *Be it enacted*, That the commissioner or commissioners, to be appointed as hereinbefore mentioned, shall report to the governor on or before the first day of November next, what he or they may have done in conformity to this act.

12. *Be it enacted*, That the public treasurer shall retain in the treasury, out of the proceeds arising from the Cherokee lands, which shall be first received at the treasury, the amount of money

to carry the contract into effect.

Releases and conveyances to be taken from the parties.

Contract to be registered in Haywood county.

Five hundred dollars to be drawn from the treasury to pay certain costs.

Treasurer to pay the money.

Commissioners to enter into bond.

Their pay.

If one of the commissioners should not act, the other may perform all the duties.

Commissioners to report to the Governor.

Money to be retained out of the proceeds of the Cherokee lands, for this contract.

appropriated by this act for carrying the above contract into effect.

AN ACT TO ALTER AND AMEND THE ACT OF THE GENERAL ASSEMBLY OF 1823, ENTITLED "AN ACT FOR THE RELIEF OF SUCH PERSONS AS BECAME PURCHASERS OF THE CHEROKEE LANDS, SOLD UNDER THE AUTHORITY OF THIS STATE."

(Passed at the session of 1824.)

Preamble.

Whereas it is found from experience, that owing to the present scarcity of money, the remote situation of the lands above mentioned, and the great distance from market of many of the purchasers thereof, it is not only difficult to most, but impracticable with some, to raise the money required of them as purchasers aforesaid; forasmuch, likewise, as the provisions of the act above mentioned are of such doubtful construction as to be misunderstood by many: For remedy whereof,

A stay of proceedings on the purchasers' bonds till the next General Assembly.

1. *Be it enacted, &c.*, That a stay of proceedings on the bonds given by the purchasers of the lands, commonly called the Cherokee lands, which have been sold under the authority of this State, be, and the same is hereby granted, from and after the passing of this act, until the meeting of the next General Assembly.

Treasurer to receive one-eighth of the original purchase, instead of one-fourth.

2. *Be it enacted*, That the public treasurer be, and he is hereby authorized and directed to receive from all purchasers of the above description, who shall tender payment on or before the period fixed as before mentioned, the one-eighth part of the original purchase, or debt due from him or them, together with all the interest which shall have accrued thereon up to that time, instead of requiring or demanding any other or greater part or proportion thereof.

Repealing clause.

3. *Be it enacted*, That all acts and clauses of acts, which come within the purview and meaning hereof, be, and the same are hereby repealed and made void.

AN ACT FOR THE RELIEF OF CERTAIN PURCHASERS OF THE CHEROKEE LANDS.

(Passed at the session of 1825.)

Interest remitted on the bonds of certain purchasers.

1. *Be it enacted, &c.*, That where any person, whose bonds are now held by the public treasurer, for the purchase of land acquired by the treaty with the Cherokee Indians, shall produce to the treasurer satisfactory proof that the tracts of land, for which such bonds were given, were materially interfered with by Indian reservations, it shall be the duty of the treasurer to remit all the interest which accrued on such bonds from their date until the first day of May, one thousand eight hundred and twentyfive, and to allow the same periods of credit, without interest, for the payment of said bonds from the said first day of May, eighteen hundred and

twentyfive, as were allowed by law to other purchasers from the date of their purchase : *Provided*, that the provisions of this act shall not extend to any person, who is not mentioned as having purchased land, with which the Indian reservations interfered, in the report made by the commissioners, Messrs Robards and Robinson, to the legislature, at their last session, nor shall they be construed to extend to any reservations except those to which the Indian title was adjudged by the said commissioners to be good and valid.

AN ACT TO REVIVE AND CONTINUE IN FORCE AN ACT, PASSED IN THE YEAR ONE THOUSAND EIGHT HUNDRED AND TWENTYFOUR, "TO ALTER AND AMEND AN ACT FOR THE RELIEF OF SUCH PERSONS AS BECAME PURCHASERS OF THE CHEROKEE LANDS, SOLD UNDER THE AUTHORITY OF THIS STATE."

(Passed at the session of 1826.)

Be 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 "to alter and amend the act of the General Assembly of one thousand eight hundred and twentythree," which was passed in the year one thousand eight hundred and twentyfour, be, and the same is hereby revived and continued in force until the next meeting of the General Assembly of this State ; and that this act shall be in force from and after the ratification thereof.

Act revived and continued in force until the meeting of the next General Assembly.

AN ACT PRESCRIBING THE MODE OF SURVEYING AND SELLING THE LANDS LATELY ACQUIRED FROM THE CHEROKEE INDIANS.

(Passed at the session of 1826.)

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That as soon as may be convenient after the passage of this act, the governor shall appoint one or two commissioners, as may be deemed necessary, whose duty it shall be to superintend and direct the manner in which all the said lands, which have not been heretofore surveyed, and which, in the estimation of the commissioner or commissioners, shall be worth fifty cents an acre, shall be surveyed and laid off into sections, containing from fifty to three hundred acres of land ; that he or they shall further cause the principal surveyor to note down, in each of the said sections, the quality of the land contained therein, stating that it is of the first, second or third quality ; and, in all cases where it can be done with convenience, or the situation of the land will admit of it, such portion of the adjoining mountainous lands shall be included in each section as may be deemed sufficient for buildings, fences, fuel, and other necessary improvements : *Provided*, that no reservation secured by treaty to any Indian, shall be surveyed or sold.

Governor to appoint commissioners. Duty of commissioners.

Proviso.

Governor to appoint one principal surveyor, who is to appoint deputies, chain carriers, &c. and be responsible for their conduct. Principal surveyor to give bond and security.

Further duty of principal surveyor.

Commissioners to give bond and security.

Lands for sale to be classed by the commissioners.

Sales to be postponed under certain circumstances.

Certain sections of the act of 1819 to be in force, and applicable to commissioners, &c.

Governor authorized to draw on the treasurer for money to pay commissioners.

For the benefit of those al-

2. *Be it further enacted*, That one principal surveyor, of skill and integrity, shall be appointed by the governor, with full power and authority to appoint as many deputy surveyors, chain carriers and markers, and to employ as many pack horses, as may be thought necessary by the commissioner or commissioners to complete said survey in the most speedy and effectual manner; for whose conduct the said principal surveyor shall be responsible; and the principal surveyor shall give bond and security in the sum of ten thousand dollars, payable to the governor for the time being, for the faithful discharge of the several duties imposed by this act. It shall further be the duty of the principal surveyor, under the direction of the commissioner or commissioners aforesaid, to cause each section by him surveyed to be measured and marked, and the corners to be clearly designated on trees, or otherwise, with the number of each section.

3. *Be it further enacted*, That each commissioner shall give bond and security, payable to the governor and his successors in office, in the sum of fifty thousand dollars, for the faithful discharge of the several duties imposed on him or them by this act.

4. *Be it further enacted*, That previous to the sale, the commissioner or commissioners shall designate all the lands, to be surveyed under the directions of this act, into three classes, according to quality; that which is of the first quality, to belong to the first class; the second quality, to the second class; and the third quality, to the third class; and if, during the time of the sale hereinafter provided for, any section of land noted to be of the first class, shall not command the sum of two dollars per acre in the market, the said commissioner or commissioners shall postpone the sale of such section until further directed by the legislature; in like manner, lands of the second class, not commanding one dollar, and lands of the third class, not commanding fifty cents per acre, shall be postponed as aforesaid, and report thereof made to the governor.

5. *Be it further enacted*, That the third, fifth, sixth, seventh, ninth, tenth, twelfth, thirteenth, fifteenth, sixteenth, and eighteenth sections of an act, passed in the year one thousand eight hundred and nineteen, entitled "An act prescribing the mode of surveying and selling the lands lately acquired by treaty from the Cherokee Indians," be, and the same are hereby declared to be in force, and applicable to the commissioner or commissioners, surveyor and sale which may be held agreeably to this act.

6. *Be it further enacted*, That the governor be, and he is hereby authorized to draw on the treasurer for any sum not exceeding two thousand dollars, to be paid to the commissioner or commissioners, to enable them to commence the said business, and by them to be applied towards paying charges and expenses incident to the performance of the duties enjoined on said commissioner or commissioners, and for which said commissioner or commissioners shall give the State credit on a final settlement of his or their accounts.

7. *Be it further enacted*, That the persons already settled on

said lands, waiting for the sale thereof, shall be entitled to the benefit of the crops, which they may have planted or sown, previous to the sale herein before directed. ready settled on said lands.

8. *And be it further enacted,* That if any person shall bid off lands at the above recited sale, and shall not comply with the terms of such sale within twentyfour hours thereafter, if so required to do by the commissioner or commissioners, he, she, or they shall forfeit their bid, and the commissioner or commissioners may, in such case, receive the bid of the next highest bidder, in the same manner as if he had been the highest bidder: *Provided always,* that such bid is not below the minimum price of said land, and that the commissioner or commissioners may, in their discretion, sue for, and recover of the highest bidder, who has refused to comply with the terms of sale, the difference between his bid and the bid of the next highest, in case the commissioner or commissioners should receive the same. Bidders who fail to comply with terms of sale within twentyfour hours, to forfeit their bid and the next highest bid to be received. Proviso.

9. *And be it further enacted,* That at the time of said sale, the commissioner or commissioners shall have power to sell lots No. 3, No. 9, No. 13 and No. 19, in the town of Franklin, on the same terms of credit, and under the same rules and regulations herein prescribed for the sale of the aforesaid lands. Commissioners empowered to sell lots in the town of Franklin.

AN ACT TO AMEND AN ACT, PASSED IN THE YEAR ONE THOUSAND EIGHT HUNDRED AND TWENTYSIX, ENTITLED "AN ACT PRESCRIBING THE MODE OF SURVEYING AND SELLING THE LANDS LATELY ACQUIRED FROM THE CHEROKEE INDIANS."

(Passed at the session of 1827.)

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That the treasurer be, and he is hereby directed to pay to the surveyor, chain bearers, and other persons employed in surveying the Cherokee lands, the sums respectively due to them, as certified by the commissioners appointed under the act of one thousand eight hundred and twentysix, entitled "An act prescribing the mode of surveying and selling the lands lately acquired from the Cherokee Indians." Treasurer directed to pay surveyor, chain bearers, &c.

2. *Be it further enacted,* That so much of the above recited act, as directs the sale of the Cherokee lands at Waynesville, in Haywood county, be, and the same is hereby repealed. Repealing clause.

AN ACT TO AMEND AN ACT PASSED IN THE YEAR ONE THOUSAND EIGHT HUNDRED AND TWENTYTHREE, ENTITLED "AN ACT RESPECTING THE RESERVATIONS OF CERTAIN INDIANS IN THE LANDS LATELY ACQUIRED BY TREATY FROM THE CHEROKEE INDIANS."

(Passed at the session of 1827.)

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

Where the governor suspects the validity of a title, he is to employ counsel in behalf of the purchaser from the State.

That whenever the governor for the time being shall have reason to believe that the title set up by any Indian (or person claiming under any Indian) to a reservation under the treaties of one thousand eight hundred and seventeen, and one thousand eight hundred and nineteen, is not a good and valid title, where the land so claimed has been sold under the authority of the State, and the purchaser has been sued, or shall be sued for the same, it shall be his duty to employ counsel to appear in behalf of such purchaser from the State, to defend the title conveyed by the State, any law to the contrary notwithstanding.

AN ACT TO CONTINUE IN FORCE AN ACT PASSED AT THE LAST SESSION OF THE GENERAL ASSEMBLY ENTITLED "AN ACT TO REVIVE AND CONTINUE IN FORCE AN ACT PASSED IN THE YEAR EIGHTEEN HUNDRED AND TWENTYFOUR TO ALTER AND AMEND AN ACT FOR THE RELIEF OF SUCH PERSONS AS BECAME PURCHASERS OF THE CHEROKEE LANDS, SOLD UNDER THE AUTHORITY OF THIS STATE."

(Passed at the session of 1827.)

Be 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 continued in force until the next meeting of the General Assembly of this State ; and that this act shall be in force from and after the ratification thereof.

Continued in force till next Assembly.

AN ACT TO ALTER AND AMEND THE ACT OF ONE THOUSAND EIGHT HUNDRED AND NINETEEN, ENTITLED AN ACT PRESCRIBING THE MODE OF SURVEYING AND SELLING THE LANDS LATELY ACQUIRED BY TREATY FROM THE CHEROKEE INDIANS.

(Passed at the session of 1828.)

Preamble.

Whereas by the said act it is directed, that upon proof of the payment of the purchase money made to the secretary of state by the treasurer's receipts, it is made the duty of the secretary of state to issue a grant to the purchaser ; and in many instances, from the lapse of time between the first and last payment, the receipts that are given by the treasurer have been lost or mislaid, for remedy whereof,

Provides for purchasers who may have lost their receipts.

Be 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 of the purchasers of the Cherokee lands shall have lost or mislaid the receipt or receipts that shall have been given by the treasurer, if it shall appear from the books of the treasury office that the whole amount due from any purchaser has been paid, the treasurer shall make out a certificate of such payment, and upon the same being filed with the secretary of state,

together with the other certificates, as prescribed by the said act, the secretary of state shall issue a grant to such purchaser, in the same manner as directed by said act.

AN ACT FOR THE RELIEF OF SUNDRY PURCHASERS OF CHEROKEE LANDS.

(Passed at the session of 1828.)

Be 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 authorized to suspend the collection of the bonds given for the purchases of the lands called the Cherokee lands, which were sold by the State, until the meeting of the next General Assembly, and immediately thereafter to commence suit upon all bonds when the obligors shall not have paid on or before that day one-eighth part of the principal and interest due upon said bonds respectively : *Provided,* that nothing herein contained shall be construed to extend to any of the obligors, whose securities may request that suits should be brought.

Treasurer authorized to suspend collection of bonds.
Proviso.

AN ACT TO AMEND THE TENTH SECTION OF AN ACT, PASSED IN ONE THOUSAND EIGHT HUNDRED AND NINETEEN, ENTITLED AN ACT PRESCRIBING THE MODE OF SURVEYING AND SELLING THE LANDS LATELY ACQUIRED BY TREATY FROM THE CHEROKEE INDIANS.

(Passed at the session of 1829.)

Whereas, by the tenth section of the act aforesaid, purchasers cannot obtain grants for said lands, on any evidence of the payment of the purchase money save that of the treasurer's receipts ; and whereas many of the purchasers have lost, or by accident have had some of their receipts destroyed : For remedy whereof,

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 certificate of the public treasurer, certifying that full payment has been made for any particular tract of land sold by the commissioners appointed to sell the lands aforesaid, describing the same by district and section, shall be taken by the secretary of state as evidence of payment ; on which he is authorized to issue grants as by law he is now authorized to issue on the production of the treasurer's receipts.

Certificate of public treasurer may be received as evidence of payment.

AN ACT CONCERNING THE BONDS IN THE OFFICE OF THE PUBLIC TREASURER FOR THE PURCHASE OF THE CHEROKEE AND TUSCARORA LANDS.

(Passed at the session of 1829.)

Whereas, according to the provisions of the several acts of assembly prescribing the mode of surveying and selling the lands lately acquired from the Cherokee Indians, the comptroller is di-

Preamble.

rected to raise an account against the several obligors for their respective purchases ; and the bonds given by them were deposited with the treasurer by the commissioners who took the same, without any statement or receipt therefor being filed with the comptroller, so as to enable him to perform his duty : and whereas the check, intended to be preserved upon the treasurer in the discharge of his duty in this respect, as required by the several laws passed for that purpose, does not exist : Therefore,

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

Public treasurer to prepare a statement of the bonds given for Cherokee lands, and deliver it to the comptroller.

That it shall be the duty of the public treasurer to prepare a full and particular statement of the bonds in his office, given for the purchase of the lands lately acquired by treaty from the Cherokee Indians, as they were at the time he received the same from the committee of investigation of the treasury department in one thousand eight hundred and twentyseven, which shall be certified by him to be and contain a true and correct statement thereof as aforesaid ; and it shall be his duty to deliver the same to the comptroller, to be by him filed in his office, who shall raise an account against the public treasurer for the same, and debit his bond account with the interest that has or may hereafter accrue on said bonds, as the same shall have been or may hereafter be paid, and credit his said account with such sums of principal or interest as may have been by the public treasurer heretofore paid according to receipts on file in the comptroller's office, and for all sums that may hereafter be paid agreeably to law, for and on account of said bonds.

Comptroller to raise an account against the treasurer for the same, &c.

Further duty of the comptroller.

2. *And be it further enacted,* That it shall be the duty of the comptroller to make out and complete the books in his office, on which the accounts of the obligors in the bonds for the purchase of the lands acquired as aforesaid are opened and kept up to the end of each fiscal year, in the same manner as the same are now kept in the office of the public treasurer, so as to exhibit the different amounts of principal and of interest to the time of the payments heretofore made, or which may hereafter be made, and the true and actual amount of each debt, and of the balance due the State on account thereof.

AN ACT FOR THE RELIEF OF CERTAIN PURCHASERS OF THE
CHEROKEE LANDS.

(Passed at the session of 1829.)

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

Conditions on which interest on bonds held by the public treasurer may be remitted.

That where any person, whose bonds are now held by the public treasurer for the purchase of land acquired by the treaty with the Cherokee Indians, shall produce to the treasurer and attorney general satisfactory proof that the tracts of land for which such bonds were given, were materially interfered with by Indian reservations,

it shall be the duty of the treasurer to remit all the interest which may have accrued on such bonds from their date until the first day of December, one thousand eight hundred and twentynine, or so much thereof as may be commensurate with the injury actually sustained : *Provided*, that the provisions of this act shall not extend Proviso. to any person whose lands have not been materially and injuriously interfered with by such Indian reservations as have been recognized as good and valid by Romulus M. Saunders and Humphrey Posey, as commissioners of the United States, and purchased by them as such.

2. *And be it further enacted*, That should the treasurer and attorney general be of opinion that in any case the expense incurred by the purchaser in defending any suit or suits which may have been brought against him in consequence of said purchase, or the injuries that they may have sustained in consequence of such suits and the delays and perplexities arising therefrom, or any further charge the said purchaser may have been put to in purchasing the Indian titles, is sufficiently great to authorize a larger remuneration than the simple remission of interest, that in that case they are hereby empowered to grant such further relief as they may adjudge the circumstances of the case to require. Case in which further remuneration may be allowed.

3. *And be it further enacted*, That in all cases the depositions offered by the parties, shall be sworn to in open court in the county of Macon or before some justice of the peace in said county ; and if any person shall be guilty of perjury, he shall be subject How depositions shall be taken. to indictment, and liable to all the pains and penalties as in other cases now prescribed by law. Penalty.

AN ACT TO AMEND THE TENTH SECTION OF THE ACT OF ASSEMBLY, CHAPTER NINE HUNDRED AND NINETYSEVEN, PASSED IN THE YEAR ONE THOUSAND EIGHT HUNDRED AND NINETEEN, ENTITLED "AN ACT PRESCRIBING THE MODE OF SURVEYING AND SELLING THE LANDS LATELY ACQUIRED BY TREATY FROM THE CHEROKEE INDIANS."

(Passed at the session of 1831.)

Whereas by the above recited act it is made the duty of the commissioners to deliver to the purchaser a certificate of his purchase, with a plat of the lot and number of the section and district conformable to the plan returned to the secretary's office, on producing of which, and proof of the payment of the purchase money, it was made the duty of the secretary to issue a grant ; and whereas by misfortune and otherwise many of these certificates become worn out or lost, and the purchaser thereby deprived of getting his grant from the State, although he may have paid all the purchase money, and got receipts accordingly : For remedy whereof, 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 in all cases where certificates may have been lost or de- Secretary shall issue a grant on affidavit of the purchaser.

Proviso.

stroyed, it shall be the duty of the secretary (on receiving the affidavit of the purchaser, his heirs or assigns, taken before some justice of the peace for his county, setting forth the number of the section and district, and that the certificate of his purchase has been lost or destroyed) to make out a copy of the plot and field notes from the books in his office, and issue a grant in the usual way: *Provided*, that no grant shall issue where the number of the section and district set forth in the affidavit does not agree with the books in the office, nor without a receipt or certificate from the public treasurer, setting forth the payment of the purchase money.

AN ACT DIRECTING THE SALE OF THE LANDS REMAINING UNSOLD,
ACQUIRED BY TREATY FROM THE CHEROKEE INDIANS.

(Passed at the session of 1833.)

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That the governor be, and he is hereby authorized to direct the sale of so much of the lands lately acquired by treaty from the Cherokee Indians as have been surveyed and remain unsold, at such time and place as he may deem proper, under the direction of a commissioner to be by him appointed for that purpose, after having advertised the same at least three months in the public newspapers of this city, the Western Carolinian of Salisbury, and such other papers as he may think proper; which sale shall be kept open one week, and no longer.

Governor authorized to direct the sale, and to appoint a commissioner for that purpose.

Circumstances under which commissioner shall postpone sale or bid off land for the State.

2. *Be it further enacted,* That if, during the sale, any section of land noticed to be of the first quality, shall not command in the market one dollar and fifty cents per acre, and in like manner, lands of the second quality not commanding seventyfive cents per acre, and lands of a third quality not commanding twentyfive cents per acre, the commissioner shall postpone the sale of such lands; and when the commissioner discovers that any section of land is likely to bring less than its value, either for want of competition or from combination among the bidders, he shall bid off the same for the State.

Parts of former acts continued in force.

3. *Be it further enacted,* That the provisions of the second section of an act, passed in the year one thousand eight hundred and twentyone, entitled "An act concerning the lands lately acquired by treaty from the Cherokee Indians;" and the provisions of the seventh, twelfth, thirteenth, sixteenth and eighteenth sections of an act, passed in the year one thousand eight hundred and nineteen, entitled "An act prescribing the mode of surveying and selling the lands lately acquired by treaty from the Cherokee Indians," be, and the same are hereby continued in force.

Lots in Franklin may be surveyed and sold.

4. *Be it further enacted,* That the governor be, and he is hereby authorized to cause twelve additional lots to be surveyed in the town of Franklin, out of the four hundred acres reserved to the State, which may, together with those already surveyed, be

exposed to sale under like rules and regulations as is prescribed in the before recited acts : *Provided always*, that the said commis-^{Proviso.} sioner be authorized, if in his opinion the interest of the State require it, to purchase in the same for the State.

5. *Be it further enacted*, That nothing in this act shall be so construed as to authorize the sale of any lands, the title of the State to which may be regarded as doubtful. ^{Lands of doubtful title not to be sold.}

6. *Be it further enacted*, That in case the said lands should be sold, nothing in this act shall be so construed as to prevent ^{Crops may be gathered.} persons who may have crops growing on the said lands, from gathering the same.

AN ACT MAKING IT THE DUTY OF THE GOVERNOR TO CONVEY TO THE JUSTICES OF HAYWOOD COUNTY COURT, CERTAIN LANDS THEREIN DESCRIBED.

(Passed at the session of 1835.)

Be 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. ^{Governor to convey certain lands to the justices of Haywood county court.}

2. *Be it further enacted*, That the bonds so executed, shall be payable in four equal annual instalments. ^{How bonds payable.}

3. *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. ^{Justices to dispose of said lands.}

AN ACT PRESCRIBING THE MODE OF SURVEYING AND SELLING THE LANDS OF THIS STATE, LATELY ACQUIRED BY TREATY WITH THE CHEROKEE INDIANS.

(Passed at the session of 1836.)

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That as soon as may be convenient after the passage of this act, it shall be the duty of the governor to appoint two commissioners, whose duty it shall be to superintend and direct the manner in which the said lands shall be surveyed and laid off ; and it shall be ^{Governor shall appoint commissioners and surveyor.}

the further duty of the governor to appoint one principal surveyor, of skill and integrity, with full power and authority to appoint as many deputy surveyors, chain carriers and markers, and to employ as many pack horses, as may be necessary to complete the said surveying in the most speedy and effectual manner; and the said principal surveyor shall be responsible for the conduct of his said deputy surveyors in their official duty.

Bonds required of commissioners and surveyors.

2. *And be it further enacted,* That the said commissioners, before entering on the duty by this act required, shall give bond and security, payable to the State of North Carolina, in the sum of ten thousand dollars, conditioned for the faithful discharge of their several duties as commissioners; and the said principal surveyor shall also, before entering on the duties by this act required, give bond, with sufficient security, as heretofore required of the commissioners, in the sum of ten thousand dollars, conditioned for the faithful discharge of his duty as principal surveyor.

Site for public buildings to be fixed upon, &c.

3. *And be it further enacted,* That it shall be the duty of the said commissioners and principal surveyor to ascertain and fix upon some central and eligible site for the erection of the public buildings, which may hereafter become necessary when that portion of the State may be erected into a separate and distinct county; and to lay off four hundred acres of land immediately surrounding the said site, and to be reserved for the future disposition of the legislature, (except as herein provided.) It is hereby the duty of the said commissioners and principal surveyor to lay out, within the said four hundred acres of land, one acre for the public square; and to lay off two streets, crossing each other at right angles, which streets shall be one hundred feet in width; and to lay off twentyfour lots, of one half acre each, so that each lot may be one hundred and five feet fronting the street; and three fair plats of which shall be made by the surveyor, and by him returned to the commissioners, and by them deposited as hereinafter provided for the returns of the maps of survey.

Lands to be laid off into districts and tracts.

4. *And be it further enacted,* That it shall be the duty of the said principal surveyor, under the directions of the commissioners aforesaid, to cause all the lands of this State, lately acquired by treaty from the Cherokee Indians, to be laid off into suitable districts for the convenience of surveying, and number the said districts progressively; and to lay off and survey each district, or so much thereof as they may deem practicable, into tracts, containing from fifty to four hundred acres, and to be so laid out, where the same can be done, as that each tract may include a suitable and necessary portion of the timbered, mountainous or broken land, as will be sufficient for building fences, fuel and other necessary purposes: And the principal surveyor shall cause to be plainly marked on the beginning corner of each tract, and fronting said tract, the number of the district and tract, as the case may be; and shall cause all other corners to be plainly marked in the usual manner; and shall cause all lines by him run to be measured and plainly marked, where the same may be practicable; and shall lay down in his field book a fair plat of each and every tract by him survey-

ed, together with the district and number of the tract, as well as the quantity and quality : being first, second, third, fourth and fifth, as also a descriptive account of the lines and corners of each tract by him surveyed. And the said principal surveyor, under the directions of the commissioners, shall cause to be surveyed so much of the said Cherokee lands as, in their opinion, will command the sum of twenty cents per acre ; and the residue of said land shall remain subject to the disposition of a future legislature, and shall not be liable to be entered in the entry taker's office of the county of Macon ; and when hereafter exposed to public sale, lands of the first quality shall not be sold for a less sum than four dollars per acre ; and lands of second quality, not less than two dollars per acre ; and lands of the third quality, not less than one dollar per acre ; and lands of the fourth quality, not less than fifty cents per acre ; and lands of the fifth quality, not less than twenty cents per acre.

Qualities and prices of lands, &c.

5. *And be it further enacted,* That the surveyor shall note, in his field book, the true situation of all mines which may come to his knowledge, as also all mineral springs, mill seats and principal water courses ; over which the line he runs may pass, and those contiguous thereto ; and the said field books shall be delivered to the principal surveyor, whose duty it shall be therefrom to cause to be made three correct maps of the whole lands by him surveyed ; and shall insert the quality of each tract so laid down in his map ; and the said maps, when so completed, shall be delivered to the commissioners, together with the field book of all such surveys, on or before the first day of November, one thousand eight hundred and thirtyseven, and shall be by the commissioners deposited in the following manner, to wit : one map in the office of the county court clerk for the county of Macon ; one other in the office of his excellency the governor ; and the remaining one in the office of the secretary, together with the field books of all the surveys, made in pursuance of this act ; and the said commissioners aforesaid, upon the receipt of the maps and field books, shall, within two months therefrom, file the same in the different offices as by this act directed.

What surveyor shall note.

Maps required to be made.

6. *And be it further enacted,* That it shall be the duty of the governor, upon the return of the maps and field books as heretofore directed, to issue his proclamation, which he shall cause to be published in all the newspapers in the city of Raleigh, as also such other papers in the adjoining states of South Carolina, Georgia, Virginia and Tennessee, as he may deem necessary, of the time and place of sale of the said land ; which notice shall be given at least four months previous to said sale ; and the said sale shall be appointed and held in the town of Franklin, in the county of Macon, commencing on the first Monday of September, in the year of our Lord one thousand eight hundred and thirtyeight ; and to continue from day to day, for the space of three weeks, and no longer.

Governor to issue proclamation of sale, &c.

7. And it shall be the further duty of the governor to appoint two other commissioners, to superintend the said sales, who shall, before entering on the duties by this act required, give bond, with

Governor shall appoint commissioners of sale, who, upon

giving bond,
shall proceed to
sell, &c.

sufficient security, in the sum of fifty thousand dollars each, payable to the State of North Carolina, conditioned for the faithful discharge of their duty as commissioners of sale ; and the said commissioners so appointed, and having given bond as heretofore required, shall proceed, at the time and place by this act directed, to expose to public sale to the highest bidder, commencing with the first district and first tract, and so on progressively, until the whole shall be so offered for sale according to the provisions of this act ; and it shall be the duty of the said commissioners to sell by tracts ; and having once offered for sale any tract, and the same cannot be sold for the minimum price, to postpone the sale : *Provided always*, that if, after any tract shall have been so postponed, any individual or individuals shall make known to the said commissioners, in writing, that he or they are willing to give the minimum price of any tract so postponed ; then in that case, it shall be the duty of the commissioners to offer the same to public sale to the highest bidder a second time, first giving notice by the public crier by them employed for the land sales, at least one day previous thereto, setting forth the particular tract or tracts so intended to be offered, as also the day on which the same shall be so offered ; and shall be conducted under the same rules and regulations as other sales by this act directed.

Payments re-
quired of pur-
chaser.

8. *And be it further enacted*, That the said commissioners shall require of each and every purchaser to pay down, at the time of said purchase, one eighth part of the purchase money ; and shall take bond and security for the payment of the balance of the purchase money in the following manner, to wit : the balance of one fourth at the expiration of one year from the date of the sale, and one other fourth at the expiration of two years, and one other fourth at the expiration of three years, and the remaining fourth at the end of four years ; and in no instance shall a grant or grants issue to the purchaser until the whole of the purchase money shall be paid in full ; and in case of failure to pay the whole when due, and the money cannot be obtained by a judgment on their bonds, the lands so purchased shall revert to the State, and shall again be liable to be sold to any other person, for the use and benefit of the State.

Certificate and
grant how
given.

9. *And be it further enacted*, That the commissioners shall give to each purchaser a certificate, describing the land by him or them purchased, with a plot of the lot and number of tract, conformable to the plan returned to the secretary's office ; upon the production of which, and proof of the payment of the purchase money, made to the secretary, by the treasurer's receipt, it shall be the duty of said secretary to issue a grant to the purchaser, for the said lot or tract of land, in the usual and common form.

Commissioners
shall pay over
moneys.

10. *And be it further enacted*, That the before mentioned commissioners of sale shall faithfully account for, upon oath, and pay over to the treasurer, all moneys by them received, in pursuance of the sale of said lands as heretofore provided.

Commissioners
shall deposit
bonds with
treasurer, &c.

11. *And be it further enacted*, That the bonds taken by the commissioners, for securing the balance of the purchase money, shall be by them lodged with the treasurer of the State ; and they

shall take from him duplicate receipts, one of which shall be filed with the comptroller, who shall thereupon raise an account with the obligors, and shall render an account, on oath, to the comptroller, of all moneys by them received and paid over to the treasurer ; which duties they shall perform at as early a day as may be after said sale.

12. *And be it further enacted,* That if any purchaser shall be disposed to pay the whole of the purchase money, or any part thereof, in advance, the commissioners are hereby authorized to receive the same, and to deduct at the rate of six per centum per annum on such advancement. Advance pay-ments.

13. *Be it further enacted,* That each of the commissioners appointed by this act shall be entitled for their services to the sum of five dollars for each and every day they shall be necessarily employed in performing the duties by this act required ; and the principal surveyor, the sum of five dollars ; and each of his deputy surveyors, the sum of four dollars ; each chain carrier and marker, the sum of two dollars ; and each pack horseman, with his own horse, the sum of two dollars and fifty cents, for each day they may be actually employed in performing the duty by this act required, each of them bearing their own expenses. Compensation of commis-sioners, sur-veyors, &c.

14. *And be it further enacted,* That the governor be, and he is hereby authorized to draw on the treasurer for the sum of four thousand dollars, to be paid to the commissioners of survey, to enable them to commence and carry on the said surveying, and by them to be applied towards paying charges and expenses incident to the performance of the duties enjoined by this act ; and the said commissioners shall render the same in the final settlement of their accounts. Governor to advance money to commis-sioners.

15. *And be it further enacted,* That each and every purchaser of any tract or tracts of said land, having obtained a certificate from the commissioners as heretofore provided in this act, his heirs and assigns shall have full power and authority to institute an action of ejectment, in the name of the State of North Carolina, against any person or persons who may be in possession of such tract or tracts of land, and shall, on application, refuse to deliver up peaceable and quiet possession thereof ; and the certificate of the commissioners to such person shall be evidence of title and right to sustain said action, unless it shall appear to the court before whom such action is tried, that said purchaser has forfeited his right under said purchase, as in this act provided. *And further provided,* that the said purchaser shall give bond and security for the payment of all costs accruing in said action, in case of his failure to recover. Purchaser may institute action of ejectment.

16. *And be it further enacted,* That until the said section of country is laid off into a separate and distinct county, it shall be and remain subject to the jurisdiction of the county of Macon, and form a part thereof. Section subject to jurisdiction of Macon.

17. *And be it further enacted,* That no purchaser of lands under this act, shall be at liberty to transfer their interest in said purchase, only subject to the lien of the security or securities for such part as they may be compelled to pay on their bonds as security ; No transfer al-lowed.

and said lien shall be good and valid in law as an indemnity to said security as aforesaid.

Cutting timber
indictable.

18. *And be it further enacted*, That any person or persons, cutting or removing timber from, or cultivating any portion of the four hundred acres of lands heretofore reserved by this act, for the future disposition of the legislature, it shall be, and they are hereby made indictable offences in the inferior and superior courts of said county, and punishable by fine, at the discretion of the court before which the conviction takes place: *Provided, nevertheless*, that all settlers on any other portion of public land and waiting for the sale thereof, shall be entitled to such crop as they may have growing at the time of the sale provided for by this act.

Eight lots to
be sold by com-
missioners.

19. *And be it further enacted*, That the commissioners of sale heretofore appointed, shall expose to public sale, to the highest bidder, eight lots heretofore provided to be laid out within the four hundred acres, in the following order: two lots adjoining the public square, and the other six lots in such order as that no two lots so sold shall be adjoining to each other; and the said sales shall be under the same rules and regulations, and the said commissioners shall make return and account for them as heretofore provided.

Sale of reserva-
tions in Macon.

20. *Be it further enacted*, That it shall be the duty of the commissioners to be appointed by virtue of this act, to cause to be surveyed and offered for sale, all the reservations remaining undisposed of in the county of Macon, under the same rules and regulations that are provided for the surveying and selling the lands lately acquired by treaty from the Cherokee Indians.

Sale of lands
already sur-
veyed.

21. *And be it further enacted*, That it shall be the duty of the said commissioners of sale, to expose again to sale all the lands already surveyed, and now remaining unsold, in the county of Macon aforesaid.

Name of coun-
ty site.

22. *Be it further enacted*, That the county site hereby directed to be laid out by the commissioners aforesaid, shall be known by the name of Murphy.

MANUFACTURES.

SILK AND SUGAR.

AN ACT TO ENCOURAGE THE CULTURE AND MANUFACTURE OF
SILK AND SUGAR IN THIS STATE.

(Passed at the session of 1836.)

Be 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 six or more citizens of any congressional dis-

trict in this State, shall associate themselves together, as a joint stock company, for the growth or manufacture of silk or sugar, or both, and shall subscribe for one hundred shares, of twenty dollars each, of the capital stock of such company ; and organize themselves as such, by appointing their president, secretary, treasurer and at least three directors ; and notify the governor thereof, such subscribers and their subsequent associates, successors and assigns, shall be, and they are hereby declared to be incorporated into a joint stock company, by whatever name or style they may think proper to assume ; which name they shall also make known to the governor : and by such name may sue and be sued, plead and be impleaded, before any court or justice of the peace : and shall have succession, and continue their corporate existence for the space of ninety-nine years from and after the date of their organization, unless they voluntarily surrender their charter within that period ; and shall be able and capable in law to have, purchase, receive, enjoy, and retain to them, and their successors, lands, rents, tenements, goods, chattels, and effects, of whatsoever nature, kind or quality ; and the same to sell, grant, devise, alien, or dispose of ; and shall possess and exercise all the rights and privileges of a corporation or body politic in law ; and may make and use a common seal, and make all such bylaws, rules and regulations as may be necessary for the well ordering and management of the affairs of such company, not inconsistent with the constitution or laws of the State : *Provided, however,* that the provisions of this act shall be extended only to such companies as shall be formed within twenty-five years from the ratification thereof : *And provided further,* that no company formed under this act, shall employ their capital in banking operations.

When and how
corporation
may be formed.

Corporate priv-
ileges.

2. *Be it further enacted,* That the governor, on being notified as aforesaid, of the organization of any such company, shall thereupon issue his proclamation, making known the fact that such company is duly incorporated under this act, together with the name or style of such company, and the names of the officers thereof, a copy of which proclamation and of this act, under the great seal of the State, shall be held and deemed conclusive evidence of the corporate existence of such company, until the termination of their charter.

Organization of
companies to be
made known
by proclama-
tion of the
governor.

3. *Be it further enacted,* That every such company may, from time to time, as they may deem expedient, enlarge their capital stock, by additional subscriptions, in shares as aforesaid, until they severally reach the sum of fifty thousand dollars ; but no one of them shall extend their capital beyond that sum, without an express permit to do so from the General Assembly. And the stock subscribed in such companies shall be paid in the following manner, that is to say : ten dollars upon each share shall be paid, in sums of two dollars and fifty cents each, every three months from and after the date of the organization of such companies ; and the balance in such sums and at such times as the president and directors thereof may order and direct ; and in case of delinquency of payments, the president and directors of such corporation may

Limitation of
capital.

Payment of
stock.

enforce payment, by the sale of the stock of such delinquent, or by recourse at law against such stockholder.

General meetings, and election of officers.

4. *Be it further enacted,* That there shall be a general meeting of the stockholders of every such company, in person or by proxy, annually ; and, a majority of the stock being represented, shall then and there elect their president, secretary, treasurer, and three, five or seven directors, for one year, or until their successors shall be chosen ; and may do all other acts and things authorized by this act ; and in such general meetings each stockholder shall be entitled to give one vote for every share held by him, her or them in such company, up to five ; and one vote for every five shares after the first five ; and the shares of stock in every such company shall be deemed personal property, and as such shall pass into the hands of administrators or executors, and be assets in their hands.

Companies may make contracts, &c.

5. *Be it further enacted,* That every such corporation may make contracts, or become bound by instruments, in writing, signed by their president, and countersigned by their secretary ; but the legal estate in the lands of such companies shall not be aliened, except by deed under the corporate seal of such company. Legal process against any such corporation may be served on the president thereof ; or if he cannot be found by the officer, then on any director. And all the corporate property of every such company, of whatever kind or nature, shall be liable for the payment of the debts of such corporation.

Corporations to keep a record of their proceedings.

6. *Be it further enacted,* That it shall be the duty of every such corporation to keep a full and fair record of all their proceedings, and of their accounts and transactions, in a well bound book, and shall produce said records in any court, when required so to do by such court, as evidence in any matter therein depending for trial. And the secretary of every such corporation, shall enter into bond, with sufficient security, to be judged of by the president and directors thereof, in the sum of one thousand dollars, payable to the State of North Carolina, for the use of said corporation, for faithfully recording all the proceedings, orders and settlements of the president and directors, and for the faithful preservation of such records, and the papers of such corporation. And the treasurer of every such corporation, shall, in like manner, before entering upon the duties of his office, enter into bond, with security, to be approved of as aforesaid, in such sum as the president and directors may judge requisite, for the safety of the funds of such company committed to his care. And every officer appointed by the president and directors of any such corporation may, by them, be removed at pleasure, and others appointed in their stead.

Secretary and treasurer to give bonds.

Officers may be removed.

NAVIGATION COMPANIES.

DISMAL SWAMP CANAL.

AN ACT FOR CUTTING A NAVIGABLE CANAL FROM THE WATERS OF PASQUOTANK RIVER, IN THIS STATE, TO THE WATERS OF ELIZABETH RIVER, IN THE STATE OF VIRGINIA.

(Passed at the session of 1790.)

WHEREAS the cutting of a navigable canal from the waters of Pasquotank river in this State, to the waters of Elizabeth river in the State of Virginia, will be of great public utility, and many persons are willing to subscribe large sums of money to effect such a beneficial work, and it is just and proper that they, their heirs and assigns, should be empowered to receive reasonable tolls forever, in satisfaction for the money advanced by them in carrying the work into execution and the risk they run : Therefore,

1. *Be it enacted, &c.*, That it shall and may be lawful to open books in the counties of Rockingham and Granville, and the towns of Halifax, Murfreesborough, Edenton, Windsor and Nixonton, under the management of James Gallaway in Rockingham, Robert Burton in Granville, Allen Jones in the town of Halifax, Hardy Murfree in the town of Murfreesborough, John Hamilton in the town of Edenton, Zedekiah Stone in the town of Windsor, and Thomas Harvey in the town of Nixonton ; and under the management of such persons and at such places in Virginia, as shall be appointed by that state, for receiving and entering subscriptions to the amount of eighty thousand dollars for the said undertaking, which subscriptions shall be made personally or by power of attorney, and shall be in Spanish milled dollars, but may be paid in other silver or gold coin of the same value. That the said books shall be opened for receiving subscriptions on the first day of May next, and continue open until the first day of September next inclusive : and on the nineteenth day of the said month of September, there shall be a general meeting of the subscribers at Halifax, in the State of North Carolina, of which meeting notice shall be given by the said managers, or any three of them, in the gazettes of both the aforesaid states at least one month next before the said meeting. And such meeting shall and may be continued from day to day until the business is finished. And the acting managers shall, at the time and place aforesaid, lay before such of the subscribers as shall meet, according to the said notice, the books by them respectively kept, containing the state of the said subscriptions, and if onehalf of the capital sum aforesaid should on examination appear not to have been subscribed, then the said managers are empowered to take and receive subscriptions to make up the deficiency. And a just and true list of all the subscribers,

Books to be opened for taking subscriptions, &c.

When and how long to be opened.

Meeting of subscribers and proceedings thereon.

with the sums subscribed by each, shall be made out and returned by the said managers, or any four or more of them, under their hands, into the superior court of the district of Edenton, and into such court as the state of Virginia shall direct, to be there recorded. And in case more than eighty thousand dollars shall be subscribed, then the same shall be reduced to that sum by the said managers, or a majority of them, by beginning at and striking off from the largest subscription or subscriptions, and continuing to strike off a share from all subscriptions under the largest and above one share, until the sum is reduced to the capital aforesaid of eighty thousand dollars, or until a share is taken from all subscriptions above one share, and lots shall be drawn between subscribers of equal sums to determine the number in which said subscribers shall stand on a list to be made for striking off as aforesaid, and if the sum subscribed still exceeds the capital aforesaid, then they shall strike off by the same rule until the sum subscribed is reduced to the capital aforesaid, or all the subscribers are reduced to one share, and if there still be an excess, then lots shall be drawn to determine the subscribers who are to be excluded to reduce the subscriptions to the capital aforesaid, which striking off shall be certified in the list aforesaid. And the said capital sum shall be reckoned and divided into three hundred and twenty shares of two hundred and fifty dollars each, of which every person subscribing may take and subscribe for one or more whole shares, and not otherwise. *Provided*, That unless onehalf of the said capital shall be subscribed, all subscriptions made in consequence of this act shall be void; and in case onehalf and less than the whole of the said capital shall be subscribed as aforesaid, then the president and directors are hereby empowered and directed to take and receive the subscriptions which shall be first offered, in whole shares as aforesaid, until the deficiency shall be made up, a certificate of which additional subscriptions shall be made under the hands of the president and directors, or a majority of them, for the time being, and returned to and recorded in the courts aforesaid.

2. *And be it enacted*, That in case onehalf of the said capital or a greater sum shall be subscribed as aforesaid, the said subscribers and their heirs and assigns, from the time of the said first meeting, shall be and are hereby declared to be incorporated into a company by the name of the Dismal Swamp Canal Company, and may sue and be sued as such, and such of the said subscribers as shall 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 said company's business and concerns, for and during such time, not exceeding three years, as the said subscribers, or a majority of them shall think fit; and in counting the votes of all general meetings of the said company, each member shall be allowed one vote for every share as far as ten shares, and one vote for every five shares above ten, by him or her held at the time in the said company; and any proprietor by writing, under his or her hand, executed before two witnesses, may depute any other member or

To be incorporated, to choose a president, &c.

proprietor to vote and act as proxy for him or her at any general meeting.

3. *And be it enacted,* That the said president and directors so elected, and their successors, or a majority of them assembled, shall have power and authority to agree with any person or persons, on behalf of the said company, to cut the said canal, and to erect such locks and perform such other works as they shall judge necessary, for the navigation of the said canal, and carrying on the same, from place to place, and from time to time, and upon such terms and in such manner as they shall think fit; and out of the money arising from the subscriptions and tolls, and other aids hereafter in this act given, to pay for the same, and to repair and keep in order the said canals, locks and other works necessary thereto, and to defray all incidental charges; and also to appoint a treasurer, clerk, and such other officers, toll gatherers, managers and servants as they shall judge requisite, and to agree for and settle their respective wages or allowances, and settle, pass and sign their accounts; and also to make and establish rules of proceeding, and transact all the other business and concerns of the said company in and during the intervals between the general meetings of the same; and they shall be allowed as a satisfaction for their trouble therein, such sum of money as shall by a general meeting of the subscribers be determined. *Provided always,* that the treasurer shall give bond in such penalty and with such security as the said president and directors, or a majority of them, shall direct, for the true and faithful discharge of the trust reposed in him; and that the allowance to be made to him for his services shall not exceed three pounds in the hundred for the disbursements by him made; and that no officer in the said company shall have a vote in the settlement or passing his own account.

4. *And be it enacted,* That the said president and directors, and their successors, or a majority of them, shall have full power and authority, from time to time, as money shall be wanting, to make and sign orders for that purpose, and direct at what time and in what proportion the proprietors shall advance and pay off the sums subscribed, which orders shall be advertised at least one month in the Virginia and North Carolina gazettes; and they are hereby authorized and empowered to demand and receive of the several proprietors, from time to time, the sums of money so ordered to be advanced for the carrying on and executing, or repairing and keeping in order the said works, until the sums subscribed shall be fully paid, and to order the said sums to be deposited in the hands of the treasurer, to be by him disbursed and laid out as the said president and directors, or a majority of them, shall order and direct; and if any of the said proprietors shall refuse or neglect to pay their said proportions within one month after the same is so ordered and advertised as aforesaid, the said president and directors, or a majority of them, may sell at auction, and convey to the purchaser the share or shares of such proprietor so refusing or neglecting payment, giving at least one month's notice of the sale in the Virginia and North Carolina gazettes, and

Powers granted
to president,
&c.

Subscription
money how to
be paid, &c.

after retaining the sum due and charges of sale out of the money produced thereby, they shall refund and pay the overplus, if any, to the former owners ; and if such sale shall not produce the full sum ordered and directed to be advanced as aforesaid, with the incidental charges, the said president and directors, or a majority of them, may in the name of the company, sue and recover the balance by motion on ten days previous notice ; and the said purchaser or purchasers shall be subject to the same rules and regulations as if the said sale and conveyance had been made by the original proprietor.

Succession of president, &c. how kept up.

5. And to continue the succession of the said president and directors, and to keep up the same number : *Be it enacted*, That from time to time, on the expiration of the term for which the said president and directors were appointed, the proprietors of the said company at the next general meeting, shall either continue the said president and directors, or any of them, or shall choose others in their stead ; and in case of the death, removal, resignation or incapacity of the president or any of the directors, may and shall, in manner aforesaid, elect any other person or persons to be president and directors in the room of him or them so dying, removing, resigning or becoming incapable of acting, and may at any of their general meetings remove the president or any of the directors, and appoint others for and during the remainder of the term for which such person or persons were at first to have acted.

President, &c. to take an oath.

6. *And be it enacted*, That every president and director, before he acts as such, shall take an oath or affirmation for the due execution of his office.

Shares necessary to constitute a general meeting, and proceedings thereon.

7. *And be it enacted*, That the presence of proprietors having one hundred and eighty shares at least, shall be necessary to constitute a general meeting ; and that there be a general meeting of proprietors on the first Monday in September in every year, at such convenient town as shall from time to time be appointed by the said general meeting, but if a sufficient number should not attend on that day, the proprietors who do attend may adjourn such meeting, from day to day, till a general meeting of proprietors shall be had, which may be continued from day to day until the business of the company is finished ; to which meeting the president and directors shall make report, and render distinct and just accounts of all their proceedings ; and on finding them fairly and justly stated, the proprietors then present, or a majority of them shall give a certificate thereof, a duplicate of which shall be entered on the said company's books ; and at such yearly general meetings, after leaving in the hands of the treasurer such sum as the proprietors, or a majority of them, shall judge necessary for repairs and contingent charges, an equal dividend, of all the net profits arising from the tolls hereby granted, shall be ordered and made to the proprietors of the said company in proportion to their several shares ; and on any emergency in the interval between the said yearly meetings, the president, or a majority of the directors, may appoint a general meeting of the proprietors of the company, at any convenient town, giving at least one month's previous notice

in the Virginia and North Carolina gazettes, which meeting may be adjourned and continued as aforesaid.

8. *And be it further enacted*, That for and in consideration of the expenses the said proprietors will be at, not only in cutting the said canal, erecting locks, making causeways, and performing other works necessary for this navigation, but in maintaining and keeping the same in repair, the said canals, locks, causeways, and other works, with all their profits, shall be and the same are hereby vested in the said proprietors, their heirs and assigns forever, as tenants in common, in proportion to their respective shares ; and the same shall be deemed real estate and be forever exempt from the payment of any tax, imposition or assessment whatsoever ; and it shall and may be lawful for the said president and directors at all times forever hereafter, to demand and receive at some convenient place near one of the extremities of the canal, for all commodities transported through it, or over the causeways, tolls according to the following table and rates, which shall be in Spanish milled dollars, to wit : (a)

Canals, &c. vested in proprietors, and to be exempt from taxes, &c.

Rates of toll.

(a) See acts of 1792 and 1799.

All produce, goods, wares or merchandise passing the causeways, shall be subject to the same toll as goods passing through the canal : but which tolls, though chargeable in Spanish milled dollars, may be paid in other silver, or in gold coin of the same value. And in case of refusal to pay the tolls at the time of offering to pass the place aforesaid, and previous to passing the same, the collector of the said tolls may lawfully refuse passage to whatever refuses payment, and if any vessel, wagon or cart shall pass without paying the toll, then the said collector may seize such vessel, wagon or cart wherever found, and sell the same at auction for ready money ; which so far as is necessary shall be applied towards paying the said toll, and all expenses of seizure and sale, and the balance, if any, shall be paid to the owner ; and the person having the direction of such vessel, wagon or cart, shall be liable for such toll, if the same is not paid by the sale aforesaid. *Provided*, That the said proprietors, or a majority of them, holding at least one hundred and eighty shares, shall have full power and authority, at any general meeting, to lessen the said tolls or any of them, or to determine that any article may pass free of toll.

Manner of obtaining payment.

Toll may be lessened, &c.

9. *And be it enacted*, That the said canal and works to be erected thereon in virtue of this act, and the causeways, when completed, shall forever thereafter be esteemed and taken as public highways, free for the transportation of all goods, wares, commodities or produce whatsoever, and for travelling, on payment of the tolls, imposed by this act ; and no other toll or tax whatever, for the use of the waters of the said canal and the works thereon erected, or the causeways, shall at any time hereafter be imposed by both or either of the said states, subject, nevertheless, to such regulations as the legislatures of the said states may concur in to prevent the importation of prohibited goods, or to prevent fraud in evading the payment of duties imposed in both or either of the said states on goods imported into either of them.

Canal, &c. to be deemed public highways, &c.

10. And whereas it is necessary for the making of the said

Manner of obtaining lands

necessary for
the canal, &c.

canal, locks and causeways, and other works, that a provision should be made for condemning a quantity of land for the purpose : *Be it enacted*, That it shall and may be lawful for the said president and directors, or a majority of them, to agree with the owners of any land through which the said canal is intended to pass, for the purchase thereof ; and in case of disagreement, or in case the owner thereof shall be a *feme covert*, under age, *non compos*, or out of the State, on application to any two justices of the county in which such land shall lie, the said justices shall issue their warrant, under their hands, to the sheriff of their county, to summon a jury of eighteen inhabitants of his county, of property and reputation, not related to the parties nor in any manner interested, to meet on the land to be valued, at a day to be expressed in the warrant, not less than ten nor more than twenty days thereafter ; and the sheriff on receiving the said warrant, shall forthwith summon the said jury, and when met, provided that not less than twelve do appear, shall administer an oath or affirmation to every juryman that shall appear, that he will fairly, justly and impartially value the land (not exceeding the width of three hundred feet) and all damages the owners thereof shall sustain by cutting the said canal through such land, according to the best of his skill and judgment, and that in such valuation he will not spare any person through favor or affection, nor any person grieve through malice, hatred or ill-will : And the inquisition thereon taken shall be signed by the sheriff and some twelve or more of the jury, and returned by the sheriff to the clerk of his county, to be by him recorded ; and on every such valuation the jury is hereby directed to describe and ascertain the bounds of the land by them valued, and their valuation shall be conclusive on all persons, and shall be paid by the said president and directors to the owners of the land, or their legal representatives ; and on payment thereof the said company shall be seized in fee of such lands, as if conveyed by the owner to them and their successors by legal conveyance. *Provided nevertheless*, that if any farther damage shall arise to any proprietor of land in consequence of opening such canal, or in erecting such works, than had been before considered and valued, it shall and may be lawful for such proprietor, as often as any such new damage shall happen, by application to and a warrant from any two justices of the county where the land lies, to have farther damages valued by a jury in like manner, and to receive and recover the same of the said president and directors : but nothing herein shall be taken or construed to entitle the proprietor of any such land to recover compensation for any damages which may happen to any mills, or other works or improvements, which shall be begun or erected by such proprietor after such first valuation, unless the said damage is wilfully or maliciously done by the said president and directors, or some person by their authority.

Land for build-
ings how to be
obtained.

11. *And be it enacted*, That the president and directors, or a majority of them, are hereby authorized to agree with the proprietor or proprietors, for the purchase of a quantity of land, not exceeding one acre, at or near the receipt of the tolls aforesaid, for

the purpose of erecting necessary buildings ; and in case of disagreement, or any of the disabilities aforesaid, or the proprietor being out of the State, then such land may be valued, condemned and paid for as aforesaid ; and the said company shall, on payment of the valuation of the said land, be seized thereof in fee simple as aforesaid.

12. And whereas it is represented that the waters of the lake, in the Dismal swamp, commonly called Drummond's pond, may be useful for a supply of water to the said canal : *Be it enacted*, That the said lake, so far as the water thereof shall be necessary for the purpose aforesaid, shall be and is hereby vested in the proprietors of said canal ; and it shall and may be lawful for the said president and directors, or a majority of them, to open, if they shall find it expedient, a cross canal from the lake to the principal canal, for the purpose of drawing from thence a supply of water ; and for executing this work they shall have the same powers which they are authorized to exercise in opening the principal canal. And it shall not be lawful for any person whatsoever, so to cut off or divert the courses of those waters which now flow from the westward into the said lake, as to prevent their continuing to fall into it.

Waters of the lake in Dismal swamp, vested in the proprietors, &c.

13. And whereas some of the places through which it may be necessary to conduct the said canals, may be convenient for erecting mills and other water works, and the persons, possessors of such situations may design to improve the same, and it is not the intention of this act to interfere with private property, but for the purpose of improving and perfecting the said navigation : *Be it enacted*, That the water, or any part thereof, conveyed through the said canals, shall not be used for any purpose but navigation, unless there shall be sufficient to answer both the purposes of navigation and water works aforesaid ; in which case the said president and directors, or a majority of them, are hereby empowered and directed to enter into reasonable agreements with the proprietors of such situations, concerning the just proportion of the expenses of making the canals capable of carrying such quantities of water as may be sufficient for the purposes of navigation, and also for any such water works aforesaid.

Regulation respecting water works, &c.

14. And whereas the said canals may be of great utility in affording the means of draining the sunken lands through which they pass : *Be it enacted*, That it shall and may be lawful for the proprietors of the said adjacent sunken lands to open cross ditches into the said canals : *Provided*, that these cross ditches shall not be within less than one mile of one another on the same side of the canals, and be covered where they pass through the causeways with good bridges of the breadth of the causeways, at the expense of the person cutting them, and also be constructed so as that the water may be entirely prevented passing through them into the canals, at any time when this shall be necessary ; and the works occasioned by these cross ditches, except the bridges, shall be kept in repair at the expense of their proprietors.

Cross ditches, &c. to drain sunken lands, how to be opened, &c.

15. *And be it enacted*, That it shall and may be lawful for every of the said proprietors to transfer his share or shares by deed, ex-

Transfers of shares how to be made.

ecuted before two witnesses, and registered after proof of the execution thereof in the said company's books, and not otherwise, except by devise ; which devise shall also be exhibited to the president and directors, and registered in the company's books, before the devisee or devisees shall be entitled to draw any part of the profits from the said tolls : *Provided*, that no transfer whatsoever shall be made except for one or more whole share or shares, and not for part of such shares, and that no share shall at any time be sold, conveyed, transferred or held in trust for the use and benefit, or in the name of another, whereby the said president and directors or proprietors of the said company, or any of them, shall or may be challenged or made to answer any such trust, but that every such person appearing as aforesaid to be a proprietor, shall as to the others of the said company, be to every intent taken absolutely as such ; but between any trustee and the person for whose benefit any trust shall be created, the common remedy may be pursued.

Contributions
may be recov-
ered, &c.

16. And whereas it hath been represented that sundry persons are willing and desirous, on account of the public advantage, and also the improvement their estates may receive thereby, to promote and contribute towards so useful an undertaking, and to subscribe sums of money to be paid on condition the said works are completed and carried into execution, but do not care to run any risk, or desire to have any property therein : *Be it therefore enacted*, That the said president and directors shall be and are hereby empowered to receive and take in subscriptions on the said conditions, and on the said works being completed and carried into execution, according to the true intent and meaning of this act, that it shall and may be lawful for the said president and directors, or a majority of them, in case of refusal or neglect of payment, in the name of the company as aforesaid, to sue for and recover of the said subscribers, their heirs, executors or administrators, the sums by them respectively subscribed, by action of debt or on the case, in any court of record within this State.

Capital may be
increased, &c.

17. *And be it enacted*, That if the said capital and the other aids already granted by this act shall prove insufficient, it shall and may be lawful for the said company, from time to time, to increase the said capital by the addition of so many more whole shares as shall be judged necessary by the said proprietors, or a majority of them, holding at least one hundred and eighty shares, present at any general meeting of the said company. And the said president and directors, or a majority of them, are hereby empowered and required, after giving at least one month's notice thereof in the Virginia and North Carolina gazettes, to open books at the before mentioned places for receiving and entering such additional subscriptions, in which the proprietors of the said company for the time being, shall and are hereby declared to have the preference of all others for the first thirty days after the said books shall be opened as aforesaid, of taking and subscribing for so many whole shares as any of them shall choose. And the said president and directors are hereby required to observe in all other respects the same rules therein, as are by this act prescribed for receiving and adjusting

the first subscriptions, and in like manner to return under the hands of any three or more of them, an exact list of such additional subscribers, with the sums by them respectively subscribed, into the courts as aforesaid, to be there recorded : And all proprietors of such additional sums, shall and are hereby declared to be from thenceforward incorporated into the said company.

18. *And be it hereby declared and enacted*, That the tolls herein before allowed to be demanded and received are granted and shall be paid on condition only, that the said Dismal Swamp Canal Company shall make the canal thirtytwo feet wide, and eight feet in depth below the surface of the earth, and capable of being navigated in dry seasons by vessels drawing three feet water from Deep creek, near Tucker's mill, in Virginia, to the highest good navigation for vessels of the aforesaid draft in Pasquotank river, in North Carolina, with sufficient locks, each of ninety feet in length, and thirtytwo feet in breadth, and capable of conveying vessels drawing four feet water at the least, and that each of the causeways shall be twenty feet in breadth.

Conditions on which the tolls are granted.

19. *And it is hereby enacted and provided*, That in case the said company shall not begin the said work within one year after the company shall be formed, or if the said company shall not complete the navigation and works as aforesaid, within ten years after the said company shall be formed, then shall all interest of the said company, and all preference in their favor as to the navigation and tolls of the said canals and causeways, be forfeited and cease.

Time limited for beginning and completing the canals, &c. [Time enlarged by 1799, c. 534.]

And whereas at a meeting of commissioners appointed by the States of Virginia and North Carolina, to agree on the form of an act for cutting the said canal, and for regulating the commerce which may be carried on through it between the citizens of the two States, to wit : Robert Andrews and John Cooper, Esquires, on the part of Virginia, and William M'Kenzie, James Gallaway, and John Stokes, Esquires, on the part of North Carolina, at Fayetteville, in the State of North Carolina, on the twelfth day of December, in the year of our Lord one thousand seven hundred and eightysix, the following compact was mutually agreed to by the said commissioners :

Compact between the commissioners of North Carolina and Virginia.

First. The State of Virginia agrees that the waters of Elizabeth river, from the said canal to the mouth thereof, the waters of Hampton road and of Chesapeake bay to the capes, and also Roanoake river, wherever it is in Virginia, shall be forever considered as a common highway, free for the use and navigation of vessels belonging to the State of North Carolina, or any of its citizens ; and that they shall not be therein subject to the payment of any toll or charge whatever, imposed for the purpose of raising revenue.

Repealed. See 1792, c. 373, s. 2.

Secondly. The State of Virginia agrees that no restriction, duty or impost, shall be laid on any commodity which is the growth, produce or manufacture of the State of North Carolina, brought through the said canal, or over the said causeways, for sale or ex-

Repealed except as to re-inspection. See *ibid.*

portation, and that the same may be exported without re-inspection.

Repealed. See
ibid.

Thirdly. The State of Virginia agrees, that when any imported goods shall within five months after entry be exported through the said canal, or over the said causeways, into the State of North Carolina, in packages, bales or casks, as imported, the duties thereof shall be remitted or repaid, as the case may be, to the exporter, on his producing, within six months after the aforesaid entry, the certificate of the naval officer of the district of North Carolina into which the said canal enters, that the said goods have been entered there.

Repealed. See
ibid.

Fourthly. The State of North Carolina agrees that the waters of Roanoke river, Meherrin, Nottaway, Chowan, Albemarle sound as low as the mouth of Pasquotank river, and of Pasquotank from the mouth thereof to the said canal, shall be forever considered as a common highway, free for the use and navigation of all vessels belonging to the State of Virginia, or any of its citizens; and that they shall not be subject therein to the payment of any toll or charge whatever, imposed for the purpose of raising revenue.

Repealed, except as to re-inspection.
See ibid.

Fifthly. The State of North Carolina agrees, that no restriction, duty or impost shall be laid on any commodity which is the growth, produce or manufacture of the State of Virginia, passing through the aforesaid water, to the said canal, or brought through the said canal or over the said causeways, for sale or exportation; and that the same may be sold or exported without re-inspection.

In those articles where it is expressed that no duty or impost is to be laid for the purpose of raising revenue, it is not to be understood that the imposition of tolls for the purpose of improving the navigation of the said waters is prevented.

Repealed. See
ibid.

Sixthly. The State of North Carolina agrees, that when any imported goods shall, within five months after entry, be exported through the said canal, or over the said causeways, into the State of Virginia, in packages, bales or casks, as imported, the duties thereof shall be remitted or repaid, as the case may be, to the exporter, on his producing, within six months after the aforesaid entry, the certificate of the naval officer of Norfolk, that the said goods have been entered there.

Repealed. See
ibid.

Seventhly. Imported goods, passing from one part of either of the said two States to another part of the same, through any of the waters of the other State, shall not be subject to any duty imposed for the purpose of raising revenue.

Lastly. The citizens of each of the said two States may have the use of the inspections of the other for the purpose of re-inspecting any damaged commodities which have passed through the said canals, on paying the price of the labor of re-inspection, and no more.

And whereas this General Assembly are of opinion that the said compact is made on just and mutual principles, for the true interest of both governments:

Compact ratified, &c.

20. *Be it therefore enacted*, That the said compact is hereby

approved, confirmed and ratified by the General Assembly of the State of North Carolina, and that every article, clause, matter and thing therein contained shall be obligatory on this State and the citizens thereof, and shall be forever faithfully and inviolably observed and kept by this government, and all its citizens, according to the true intent and meaning of the said compact; and the faith and honor of this State are hereby solemnly pledged and engaged to the General Assembly of the State of Virginia, and the government and citizens thereof, that this law shall never be repealed or altered by the legislature of this State, without the consent of the State of Virginia.

Every act, or part of an act, of the General Assembly which comes within the purview and meaning of this act, shall be and the same is hereby repealed. This act shall commence and be in force from and after the passing of a like act by the General Assembly of Virginia.

AN ACT TO AMEND AN ACT, ENTITLED, "AN ACT TO CUT A NAVIGABLE CANAL FROM THE WATERS OF PASQUOTANK RIVER IN THIS STATE, TO THE WATERS OF ELIZABETH RIVER IN THE STATE OF VIRGINIA."

(Passed at the session of 1792.)

Whereas the legislature of the State of Virginia did, on the twentyfifth day of November, one thousand seven hundred and ninety, pass an act amending the aforesaid law, mutually entered into by compact between the two States:

1. *Be it enacted, &c.*, That the tolls allowed to be demanded and received by the before recited act, are granted and shall be paid, on condition only, that the said Dismal Swamp Canal Company shall make the canal and locks of sufficient width for vessels that are fifteen feet broad, and of sufficient depth to be navigated in dry seasons by vessels drawing three feet water, from Deep creek, near Tucker's mill, in Virginia, to the highest good navigation for vessels of the aforesaid draft in Pasquotank river in this State; and that each of the said locks shall be ninety feet in length, and the causeways fifteen feet in breadth.

2. *And be it further enacted*, That every part of the before recited act which comes within the meaning and purview of this act, and every part thereof concerning the regulation of commerce, so far as the same is now vested in the government of the United States, shall be, and the same are hereby repealed.

3. *And be it further enacted*, That the said act passed by the legislature of the State of Virginia, on the twentyfifth day of November, one thousand seven hundred and ninety, is hereby confirmed, and declared to be firm and valid, agreeable to the compact entered into between the two States, and shall in no respect be altered or amended by this State without the consent of the State of Virginia.

4. *And be it further enacted*, That the said act as passed by the State of Virginia, be printed by the public printer of this State, and incorporated with the laws of this session as a part thereof.

AN ACT TO AMEND AN ACT, ENTITLED AN "ACT FOR CUTTING A NAVIGABLE CANAL FROM THE WATERS OF ELIZABETH RIVER IN THIS STATE, TO THE WATERS OF PASQUOTANK RIVER IN THE STATE OF NORTH CAROLINA.

(Act of the Virginia legislature, passed the 25th November, 1790.)

Books to be opened for subscriptions.

1. *Be it enacted, &c.*, That the books directed to be opened for receiving and entering subscriptions in the towns of Norfolk, Portsmouth, Suffolk, Petersburg, Richmond, Fredericksburg and Alexandria, by the act, entitled, "An act for cutting a navigable canal from the waters of Elizabeth river in this State, to the waters of Pasquotank river in the State of North Carolina," shall be opened for receiving subscriptions at the said places, and under the management of the persons mentioned in the said recited act; and in the city of Williamsburg, under the management of Robert Andrews, in the month of May next after the time when this act shall be in force, and continue open until the first day of September following; and on the third Thursday of the said month of September, there shall be a general meeting of the subscribers at the town of Halifax, in the State of North Carolina; of which meeting notice shall be given by the said managers, or any three of them, in the gazettes of both the aforesaid States, at least one month next before the said meeting; and such meeting shall and may be continued, and the business of it conducted in the manner prescribed for the meeting appointed by the said recited act.

Dimensions of locks and canal.

2. *And it is hereby declared and enacted*, That the tolls allowed to be demanded and received by the before recited act, are granted and shall be paid on condition only that the said Dismal Swamp Company shall make the canal and locks of sufficient width for vessels that are fifteen feet broad, and of sufficient depth to be navigated in any seasons, by vessels drawing three feet water, from Deep creek near Tucker's mill in Virginia, to the highest good navigation for vessels of the aforesaid draft in Pasquotank river in North Carolina; and that each of the locks shall be ninety feet in length, and the causeways fifteen feet in breadth.

Repealing clause.

3. *And be it further enacted*, That every act or part of an act of assembly which comes within the purview and meaning of this act, and every part of the before recited act concerning the regulation of commerce, so far as the same is now vested in the government of the United States, shall be and the same are hereby repealed.

Condition that North Carolina pass a similar act.

4. And so soon as any act similar to the before recited act as amended by this act, shall have been passed by the State of North Carolina, the before recited act as amended by this act shall be in force, and shall never be repealed or altered by the legisla-

ture of this State, without the consent of the State of North Carolina.

AN ACT ALTERING THE TIME OF THE ANNUAL GENERAL MEETING OF THE DISMAL SWAMP CANAL COMPANY.

(Passed at the session of 1797.)

1. *Be it enacted, &c.*, That hereafter the annual general meeting of the Dismal Swamp Canal Company, shall be held on the fourth Monday in October in every year, instead of the first Monday in September. Annual meeting.

2. *Be it further enacted*, That this act shall continue to be in force so long as a similar act of the Commonwealth of Virginia shall be in force. Duration of this act.

AN ACT CONCERNING THE DISMAL SWAMP CANAL COMPANY.

(Passed at the session of 1799)

Whereas it is represented to this General Assembly by the Dismal Swamp Canal Company, that the said company, notwithstanding the greatest exertions, may not be able to complete the canal and other works undertaken by them within the time to which they are limited by law ; and also that some alterations may be made in the said works, which will be beneficial to the said company and not detrimental to the public ; and whereas it consisteth with the true policy and dignity of states to encourage works of public utility, and to favor those engaged in the execution of them so far as it may comport with the general good :

1. *Be it enacted, &c.*, That the farther time of five years be allowed to the Dismal Swamp Canal Company, to be computed from the nineteenth day of September, in the year one thousand eight hundred and one, to complete their canal and other works in such a manner as to entitle them to receive the tolls granted by law. Five years more given to complete their works.

2. *And be it further enacted*, That a causeway or road of the dimensions prescribed by law, on one bank of the said canal shall be sufficient, until the legislatures of the States of North Carolina and Virginia shall see proper to direct a like road or causeway to be made on the other bank ; any act, or part of an act, to the contrary notwithstanding. One road on bank of the canal sufficient.

3. And whereas it is represented that parts of the said canal and works may be now used by travellers and others with advantage, and it is just that they who receive a benefit therefrom should make some return for the same : *Be it enacted*, That the said company shall have a right to demand and receive from those who may choose to use their causeways or water, before the navigation and works shall be completed, a reasonable compensation for the use thereof. This act shall commence and be in force from and Tolls may be demanded.

after the passing of a like act by the General Assembly of Virginia.

AN ACT TO AUTHORIZE THE STOCKHOLDERS OF THE DISMAL SWAMP CANAL COMPANY TO INCREASE THEIR CAPITAL STOCK.

(Passed at the session of 1825.)

Preamble.

Whereas it is represented to this General Assembly that the funds provided to complete the Dismal Swamp canal are inadequate to the object ; therefore, for the purpose of obtaining the means necessary to perfect this important improvement :

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

Company authorized to open books for additional subscription.

That it shall be lawful for the president and directors of the Dismal Swamp Canal Company to open books for subscription of as many additional shares as will increase the capital of said company to an amount which may be sufficient to complete the canal.

Stockholders of the company to have a preference in the subscription of the new stock.

2. Be it further enacted, That the stockholders of the said company for the time being shall have a preference in the subscription of the new stock by this act authorized to be created, for the first thirty days after the books are opened, but no longer ; and all proprietors of such additional shares, shall, and are hereby declared to be from henceforth incorporated into the said company, upon the same conditions, and with the like privileges of the original stockholders.

This act to be in force when sanctioned by the stockholders.

3. Be it further enacted, That this act shall have no force or effect, until it shall have been sanctioned and approved by the stockholders in a general meeting, convened agreeably to the provisions of the charter of said company, and they shall have decided upon the increase of capital necessary to carry the object of this act into effect.

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

AN ACT GIVING THE ASSENT OF THE GENERAL ASSEMBLY OF THE STATE OF NORTH CAROLINA TO AN ACT OF THE GENERAL ASSEMBLY OF THE COMMONWEALTH OF VIRGINIA, PASSED ON THE TWENTYNINTH DAY OF JANUARY, A. D. ONE THOUSAND EIGHT HUNDRED AND EIGHTEEN, ENTITLED "AN ACT TO AUTHORIZE THE DISMAL SWAMP CANAL COMPANY TO OPEN A NAVIGABLE COMMUNICATION BETWEEN THE CANAL AND THE NEAREST NAVIGABLE PART OF THE NORTHWEST RIVER, AND FOR OTHER PURPOSES."

(Passed at the session of 1825.)

Preamble.

1. Whereas, at a General Assembly of the Commonwealth of Virginia, held in the year of our Lord one thousand eight hundred and eighteen, an act was passed by the said General Assembly, with the title and in the words following, to wit : " An act to authorize

the Dismal Swamp Canal Company to open a navigable communication between the canal and the nearest navigable part of the Northwest river, and for other purposes," passed the twentieth of January, one thousand eight hundred and eighteen.

2. Whereas, it is represented to the General Assembly that the interest of a large portion of the citizens of this Commonwealth and of the State of North Carolina would be greatly promoted by cutting a canal to connect Northwest river with the Dismal Swamp canal, or by clearing out the said river from its junction with the canal to the highest navigable point ; and, moreover, that the commerce of the Dismal Swamp canal arising from its present sources, together with the probable increase of trade from the improvements contemplated, make it necessary that the president and directors of the said company should have the privilege of constructing other outlets and forming basins and reservoirs to contain water for the supply of locks and accommodation of boats ;

3. *Be it therefore enacted,* That it shall and may be lawful for the president, directors and company of the Dismal Swamp canal to clear out and render navigable the Northwest river from its junction with their canal to any navigable point of said river, which may by them be deemed expedient and best calculated to confer the benefits of good navigation or to cut a canal connecting the Dismal Swamp canal with the Northwest river, at any point which may be selected by them ; and, for these purposes, full power and authority is hereby granted to acquire and possess, by grant, purchase or condemnation, under a writ of *ad quod damnum*, the land through which the said canal is intended to pass ; and that, on application to any two justices of the peace of the county in which such land shall lie, the said justices shall issue their warrant, under their hands and seals, to the sheriff of the county, to summon a jury of eighteen inhabitants of his county, of property and reputation, not related to the parties, nor in any manner interested, to meet on the lands to be valued, on a day to be expressed in the warrant, not less than ten, nor more than twenty days thereafter ; and the sheriff on receiving the said warrant, shall forthwith summon the said jury, and when met, provided that not less than twelve appear, shall administer an oath or affirmation to every jurymen present, that he will, fairly, justly and impartially value the lands required to be condemned, and all damages the owner thereof may sustain by cutting the canal through such land, according to the best of his skill and judgment, and that in such valuation, he will not spare any person through favor or affection, nor any person grieve through malice, hatred or ill will ; and the inquisition taken thereon, shall be signed by the sheriff and some twelve or more of the jury, and returned by the sheriff to the clerk of his county, to be by him recorded ; and on every such valuation, the jury is hereby directed to describe and ascertain the bounds of the land by them valued, and their valuation shall be conclusive on all persons, and shall be paid by the said president and directors and company to the owner of the land, or his legal representative or representatives ; and on payment thereof, the said company

Company authorized to clear out the N. W. River, or to connect it, by a canal, with the Dismal Swamp canal.

shall be seized in fee of such land, as if conveyed by the owner to them and their successors by legal conveyance.

The contemplated canal, &c. vested in the company on the same conditions on which they hold the Dismal Swamp canal.

The company authorized to receive toll on said canal

4. *Be it enacted*, That for and in consideration of the expenses the said Dismal Swamp Canal Company may incur, not only in cutting the said canal or clearing out the said river, erecting locks and performing other works necessary for this navigation, but in maintaining and keeping the same in repair, the said canal, locks, causeways and other works, with all their profits, shall be, and the same are hereby vested in the said company, on the same terms and conditions on which they hold the Dismal Swamp canal and its works ; and it shall and may be lawful for the president, directors and company of the Dismal Swamp canal, to demand and receive on some place on the canal hereby authorized to be cut, or on the Dismal Swamp canal, (of which this work is intended to form a part,) for all commodities transported through this new canal, or over causeways thereof, tolls after the rate of onethird of the amount paid upon the transportation of the like commodities through the main or Dismal Swamp canal.

The company authorized to construct additional outlets, basins and reservoirs.

5. *Be it enacted*, That for the purpose of improving the navigation of the canal, and rendering it of the greater public utility, it shall be lawful for the president and directors of the Dismal Swamp canal, and they are hereby authorized to construct additional outlets, and to form basins and reservoirs for the supply of the locks, and accommodation of boats, navigating the canal, at any point or place thereof, which may be selected for that purpose ; and that they have power to acquire and hold for the use of the company, such quantity of land as may be found to be necessary for these objects, under the same terms and conditions as are enacted for the acquisition of land in the first section of this act.

The company empowered to prescribe the number, location, &c. of bridges across the canal, and to make by-laws.

6. *Be it further enacted*, That the Dismal Swamp Canal Company, in their corporate capacity, shall be, and are hereby empowered to prescribe the number, the places and manner of constructing bridges that are to cross their canal, to restrain persons from depositing timber and lumber upon the roads of the canal, to the obstruction of travellers, and injury of the embankments thereof, and to make such other regulations and bylaws as shall be found necessary to prevent or correct abuses, and preserve peace and good order among those who pass on this public highway.

If the company fail to commence said works within two years, subscriptions to be opened at Norfolk for that purpose.

7. *Be it further enacted*, That, in case the president, directors and company of the Dismal Swamp Canal Company, shall not, at its next general meeting after the passage and confirmation of this law, declare its intention to open and improve the navigation of the Northwest river, or to cut a canal, connecting those waters with the waters of the Dismal Swamp canal, or shall fail within two years thereafter to commence the same in the manner provided for by this act, it shall and may be lawful, for either of those purposes, to open books of subscription in the borough of Norfolk, under the superintendence of Swepson Whitehead, William C. Holt, Robert B. Taylor, William Cammack, Butler Maury, Miles King and Richard Blow, to raise any sum of money that

may be deemed requisite, not exceeding fifty thousand dollars, in shares of one hundred dollars each; and when the subscription shall be completed, there shall be a general meeting of the subscribers on such day and at such place as a majority of the said subscribers shall appoint, notice of which meeting having been given for three weeks in some newspaper printed in Norfolk. If a majority of the shares subscribed for be represented in this general meeting, the company shall thenceforth be incorporated and styled "The Northwest River Company," and shall then, and annually thereafter, there being at such subsequent meeting a majority of the shares represented, proceed to the choice of a president and four directors, and such officers, agents and servants, as may be necessary for commencing, prosecuting and conducting said work.

When said subscription is completed, the company to be organized under the title of "The Northwest River Company."

8. *Be it further enacted*, That the subscriptions to this company shall be made payable at such periods and in such proportions as the president and directors, or a majority of them, shall direct; and in case of the failure of any subscriber or subscribers to comply with the orders or requisitions of the said president and directors in this respect, the share or shares of him or them so failing may be sold at public auction for ready money, (after publishing, for ten days, notice of the time and place of sale of such share or shares, in some newspaper of the borough of Norfolk,) and a transfer thereof in fee simple made to the purchaser or purchasers; and if, after the sale of such share or shares, there shall still remain a balance due thereon, the same may be recovered with costs (upon ten days' previous notice) of the subscriber or subscribers of such share or shares, his or their executors or administrators.

Shares, on which subscriptions have not been paid, to be sold at auction.

9. *Be it enacted*, That it shall and may be lawful for the Northwest River Company, to demand and receive, for the transportation of any article through its canal, onethird of the price which the Dismal Swamp Canal Company might lawfully charge for the transportation through it of the like article.

Tolls.

10. *Be it enacted*, That the condemnation of land necessary for the purposes of this company, the transfer of shares, the appointment of directors, officers, agents and servants, and all other necessary acts and things to be done for the government of the company, shall be after the manner and upon the principles of the charter of the Dismal Swamp Canal Company. This act shall commence and be in force from and after the confirmation of the same by the legislature of the State of North Carolina.

The concerns of said company to be conducted agreeably to the charter of the Dismal Swamp Canal Company.

11. *Now therefore, be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same*, That the assent of the State of North Carolina, be, and the same is hereby given to the above act, is as full and ample a manner as if the said act had been passed by the General Assembly of this State.

Assent of North Carolina given to the foregoing act.

AN ACT TO PROVIDE FOR THE REMOVAL OF THE OBSTRUCTION
TO THE PASSAGE OF MASTED VESSELS FROM THE DISMAL SWAMP
CANAL TO ALBEMARLE SOUND.

(Passed at the session of 1823.)

Whereas complaint has been made to this General Assembly, that a bridge erected across Pasquotank river by the counties of Camden and Pasquotank, obstructs the passage of masted vessels from the Dismal Swamp canal to the waters of Roanoke and the other rivers flowing into Albemarle sound ; and whereas, in the compact entered into with the State of Virginia, the State of North Carolina pledged its faith and honor that the waters of Roanoke river, Meherren, Nottaway, Chowan, Albemarle sound as low as the mouth of Pasquotank river, and of the Pasquotank from the mouth thereof to the said canal, should be forever considered a common highway, free for the use and navigation of all vessels belonging to the State of Virginia or any of its citizens ; and whereas it is represented to this General Assembly that the said counties have been at considerable expense in erecting said bridge, and that a draw might be fixed therein so as to permit the passage of vessels having masts ; and inasmuch as the making of such draw, or otherwise altering the construction of said bridge, so as to permit the passage of masted vessels, would be for the public benefit, it is just and proper that the State should contribute toward the expense thereof :

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

Commissioners
appointed.

Their duty.

Public treas-
urer to pay for
fixing draw in
the bridge.

Counties to
keep draw in
the bridge.

same, That Willie M'Pherson, George Ferebee and Joseph Dozier, of Camden county, and William S. Hinton and Noah Sawyer, of Pasquotank, be, and they are hereby appointed commissioners, whose duty it shall be to examine said bridge ; and if, in their opinion, a draw can be fixed therein, so as not to obstruct the passage of vessels with masts, they, or a majority of them, may cause the same to be done, in the best and most economical manner, by contract or otherwise ; and when completed, the said commissioners, upon obtaining a certificate from the president of the Dismal Swamp Canal Company that the said bridge is so fixed as not to obstruct the passage of masted vessels, steamboats or other vessels, are hereby authorized to demand of and receive from the public treasurer the sum necessary to pay for such draw, or other alteration in said bridge, providing the same shall not exceed the sum of two hundred and fifty dollars ; and the public treasurer is hereby authorized and directed to pay the same, on presentment of the certificate from the president as aforesaid.

2. *And be it further enacted,* That the said counties of Pasquotank and Camden shall ever hereafter, so long as they may keep the bridge across Pasquotank river as aforesaid, keep a good and sufficient draw in said bridge, so as not to obstruct the passage of any vessel, with or without mast, in passing to or from said canal, at the proper costs and charges of the counties aforesaid.

3. *And be it further enacted,* That if the said commissioners shall fail to have a draw fixed in said bridge, or to have it so altered as to permit vessels to pass with masts by the time the said canal shall be ready to admit of the passage of steamboats or vessels with masts, then and in that case it shall be the duty of the sheriff of each of the counties of Pasquotank and Camden, or either of them, and they, or either of them, are hereby required to summon a sufficient force, and without delay to remove so much of said bridge as may obstruct the passage of any vessel as aforesaid, whenever the president of the Dismal Swamp Canal Company shall require; and if the said sheriffs, or either of them, shall neglect or refuse to remove said bridge as aforesaid, when required as aforesaid, they, or either of them, so neglecting or refusing, may be prosecuted by said president, in his own name, for such neglect or refusal, in any court having competent jurisdiction, and, on conviction, shall be fined in a sum not exceeding five hundred dollars, to the use of the State.

If commissioners fail to have draw fixed, sheriffs to have bridge removed.

Penalty.

4. *And be it further enacted,* That if at any time hereafter, the said draw shall not be kept in good and sufficient repair for the purposes aforesaid, it shall be the duty of the sheriffs of said counties, on complaint of the president of the Dismal Swamp Canal Company, to remove said bridge, under the penalty contained in this act.

Bridge, if not kept in repair, to be removed.

5. *And be it further enacted,* That the governor of the State be requested to transmit a copy of this act to the president of the Dismal Swamp Canal Company, and a copy to each of the sheriffs of Pasquotank and Camden counties, as soon as can be conveniently done after the ratification hereof.

Governor to transmit copies.

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

When to take effect.

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.

(Passed at the session of 1835.)

Be 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.

2. *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.

3. *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 thirtysix : 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.

ROANOKE NAVIGATION COMPANY.

AN ACT FOR IMPROVING THE NAVIGATION OF ROANOKE RIVER, FROM THE TOWN OF HALIFAX TO THE PLACE WHERE THE VIRGINIA LINE INTERSECTS THE SAME.

(Passed at the session of 1812.)

WHEREAS the navigation of Roanoke river from the said town of Halifax westward, is of important utility, and many persons are willing to subscribe money to effect the same, and it is just that such subscribers, their heirs and assigns, should receive reasonable toll in satisfaction for the money advanced by them to execute the said work and for the risk they run :

1. *Be it enacted, &c.*, That it shall and may be lawful to open books of subscription at Edenton, under the direction of Josiah Collins, Jun., John Little and Matthias E. Sawyer, or any two of them ; at Plymouth, under the direction of William M. Clark, John Armstead and Josiah Flowers, or any two of them ; at Windsor, under the direction of David Stone, Joseph H. Bryan and Kenneth Clark, or any two of them ; at Halifax, under the direction of Henry L. Irwin, Robert Johnson and William Burt, or any two of them ; at Warrenton, under the direction of Peter R. Davis, John Snow and William Ruffin, or any two of them ; at Oxford, under the direction of Thomas B. Littlejohn, William M. Sneed and William Bullock, or any two of them ; at Rockborough, under the direction of Alexander Cunningham, Ira Lee and William Jeffers, or any two of them ; at Caswell court house, under the direction of Solomon Graves, senior, Barzilla Graves, junior, and Griffin Gunn, or any two of them ; at Wentworth, in Rockingham county, under the direction of Robert Galloway, James Campbell and Samuel Hill, or any two of them ; at Germantown, in Stokes county, under the direction of Jeremiah Gibson, Peter Hairston and Thomas T. Armstrong, or any two of them ; and at Raleigh, under the direction of Henry Seawell, William Boylan and Joseph Gales, or and two of them, for receiving subscriptions to the amount of one hundred thousand dollars for the said undertaking ; which subscription shall be made personally or by power of attorney, and shall be in dollars ; that

Books to be opened.

Capital.

the said books shall be opened on the first day of February next, and be kept open until the first day of October next inclusive, and on the fourth Monday of the said month of October, there shall be a general meeting of the subscribers at Halifax town aforesaid, and the managers aforesaid, or any three of them, shall give notice of such meeting in one newspaper published in the town of Petersburg, in the state of Virginia, and in one or more newspapers published in the city of Raleigh in this State, one month at least before the day for that purpose appointed, and such meeting shall and may be continued from day to day until the business is finished; and the acting managers shall then and there lay before said meeting, the books by them kept, containing a state of said subscription; and if the capital sum aforesaid shall not have been subscribed, then the managers at Halifax aforesaid, may, during the said meeting, continue to receive subscriptions to make up the said deficiency; and may thereafter, at such times and places, and on such conditions and terms, as that or any other general meeting of stockholders shall direct, open books for making up any deficiency that may still remain. The president and directors shall immediately after the said first meeting, and afterwards from time to time, as often as owing to new subscriptions the same shall become necessary, make a list of the subscribers, with the sums subscribed by each person, and return the same under their hands or under the hands of any three of them, to the secretary's office of the State of North Carolina there to be recorded: and if more than one hundred thousand dollars shall be subscribed before the said first general meeting of the subscribers, the same shall be reduced to that sum by the managers or a majority of them, by beginning to strike off a share from the largest subscriptions in the first instance, and continuing to strike off one share from all subscriptions under the largest and above one share, until the same is reduced to the capital aforesaid of one hundred thousand dollars, or until one share is taken from all subscriptions above one share; and lots shall be drawn between subscriptions of equal sums to determine the numbers, in which such subscribers shall stand on a list to be made for striking off as aforesaid, and if the sum subscribed still exceeds the capital aforesaid, then they shall strike off by the same rule, until the sum subscribed is reduced to the capital aforesaid, or until all the subscribers shall be reduced to one share, and if there still be an excess, then lots shall be drawn to determine the subscribers who are to be excluded to reduce the subscription to the capital aforesaid; and the said capital sum shall be divided into one thousand shares of one hundred dollars each; and any person may subscribe for one or more whole shares but not for part of a share, and this State shall, until the fourth Monday in April, in the year one thousand eight hundred and fourteen, have the right in preference of all others of subscribing for two hundred shares; and if at the time when such subscription on behalf of this State shall be made, more than eight hundred shares shall have been subscribed for by individuals, then the said subscriptions by individuals shall be reduced to eight hundred shares,

General meeting of subscribers, &c.

Return to be made to secretary's office.

How the excess of subscription to be stricken off, &c.

by striking off in the manner herein before directed ; and the money paid on the shares struck off, (if any) shall be returned to the owners of such shares : *Provided*, that unless four hundred shares shall be subscribed before, or at the meeting of the subscribers at Halifax in Halifax town, on the fourth Monday in October next, all subscriptions made in consequence of this act, shall be void.

Incorporation.

2. *And be it further enacted*, That in case four hundred shares or more of said capital, shall be subscribed as aforesaid, the 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 Roanoke Navigation Company," and may sue and be sued, as such ; and such of the said subscribers as shall 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 said company's business and concerns for and during such time, not exceeding one year, as the said subscribers or a majority of them shall think fit ; and in counting the votes of all general meetings of the said company, each member shall be allowed one vote for every share as far as ten shares, and one vote for every five shares above ten by him or her held at the time in the said company ; and any proprietor by writing under his or her hand, executed before two subscribing witnesses and acknowledged or proved 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 as effectual, to all intents and purposes, as the presence or acts of his or her principal could or might be.

President and directors, their power and duties.

3. *And be it further enacted*, That the president and directors, and their successors or a majority of them assembled, shall have power and authority to agree with any person or persons on behalf of the company to open and improve the navigation of Roanoke river from the town of Halifax, westward to where the Virginia line intersects the same, by canals, locks or sluices from place to place, and from time to time, upon such terms as they shall think fit, and out of the said capital and 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, clerk, toll gatherers, and such officers, managers and servants as they shall think requisite, and also to agree for their wages, settle and pass their accounts, and at their pleasure to remove all or any of them, and appoint others in their place, and also to establish rules of proceeding ; and generally to transact all the business of the company in the intervals between the general meetings of the same ; and any general meeting of the proprietors may allow the said 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 reposed

in him, and that the allowance to be made to him, shall not exceed three dollars in the hundred, for the disbursements by him made, and that no officer of the said company shall have a vote in the settlement or passing of his own accounts.

4. *And be it further enacted*, That each subscriber shall pay for every share by him or her subscribed at the first general meeting, to be held as aforesaid, the sum of ten dollars to the treasurer of the company ; and the names of those who fail to pay then and there, may be struck off the books, and others complying with this regulation may take such shares ; and the president and directors, and their successors, or a majority of them, shall have power from time to time, as money may be wanting, to make and sign orders for that purpose, and direct at what times and in what proportions the subscribers shall pay the sums by them subscribed, which orders shall be advertised at least one month in some one newspaper published in the town of Petersburg in Virginia, and in one or more newspapers published in the city of Raleigh in North Carolina : *Provided always*, that the president and directors shall not demand from the subscribers more than thirtythree dollars and onethird per share in one year, and if any of the subscribers, their heirs or assigns, shall fail to pay their proportions required within one month after the same is so advertised, the president and directors, or a majority of them, may sell at auction and convey to the purchasers, the shares of the subscribers so failing, giving at least one month's notice of the sale in the newspapers aforesaid, and all such sales shall be in the town of Halifax aforesaid, and after retaining the sum due, together with the interest thereon and charges of sale, out of the money produced thereby, they shall refund and pay the surplus, if any, to the former owners ; and if such sale shall not produce the full sum ordered and directed to be advanced as aforesaid, with interest and incidental charges, the said president and directors, or a majority of them, may, in the name of the company, sue for and recover the balance by motion in any court of competent jurisdiction, on ten days previous notice ; and the said purchaser or purchasers shall be subject to the same rules and regulations, and entitled to the same profits and privileges as if the sale or conveyance had been made by the original proprietor.

First payment per share.

Appropriation of moneys.

What may be demanded in one year, and how payment enforced.

5. *And be it further enacted*, That from time to time, on the expiration of the term for which the said president and directors may be appointed, the proprietors at their next general meeting, shall either continue the said president and directors, or any of them, or choose others in their stead, and in case of the death, removal, resignation or incapacity of the president or any of the directors, the remaining members of that body, may appoint a successor until the next general meeting ; and the proprietors, at their next general meeting shall fill up such vacancy, and may at any general meeting, remove the president or any of the directors, and appoint others in their stead for and during the term for which such person or persons were at first to have acted.

President and directors, when chosen, &c.

6. *And be it further enacted*, That every president and director,

To take an oath.

before he acts as such, shall take an oath or affirmation for the due execution of his office.

A majority of shares constitute a general meeting.

Board of directors to report, &c.

7. *And be it further enacted*, That the presence of proprietors owning a majority of shares, shall be necessary to constitute a general meeting, and that from and after the first general meeting of the subscribers, the general meeting shall be held on the fourth Monday in April annually, at the town of Halifax aforesaid; but if a sufficient number shall not attend on that day, the proprietors who do attend, may adjourn such meeting from day to day until the business of the company is finished; to which meeting the president and directors shall make report, and render distinct and just accounts of all their proceedings, and on finding them fairly and justly stated, the proprietors then present, or a majority of them, shall give a certificate, a duplicate of which shall be entered on the said company's books; and at such yearly general meeting, after leaving in the hands of the treasurer, such sum as the proprietors then present, or a majority of them, shall judge necessary for repairs and contingent charges, an equal dividend of all the net profits, arising from the tolls hereby granted, shall be ordered and made to the proprietors of the said company in proportion to their several shares; and on any emergency in the interval between the said yearly meetings, the president or a majority of the directors may appoint a general meeting of the proprietors of the company at the town of Halifax aforesaid, giving at least one month's previous notice in the manner heretofore directed, which meeting may be adjourned and continued as aforesaid.

The public works vested in the proprietors.

8. *And be it further enacted*, That for and in consideration of the expenses the said proprietors will be at, not only in cutting canals, erecting locks, and performing other works necessary for this navigation, but in maintaining and keeping the same in repair; the said canals, locks, and every work and thing appertaining to the said navigation, with all the profits arising from the same, or any part thereof, shall be and they are hereby vested in the said proprietors, their heirs and assigns forever, as tenants in common in proportion to their respective shares; and the same shall be exempt from the payment of any tax, imposition or assessment whatsoever; and it shall and may be lawful for the said president and directors respectively, and at all times hereafter, to demand and receive at some convenient place or places, at or near the falls of Roanoke, for all commodities transported through any canal, lock, or sluice, made by the said company, tolls according to the following table and rates, to wit: For every pipe or hogshead of wine, containing more than sixtyfive gallons, seventyfive cents; every hogshead of rum or other spirits, sixtyfive cents; every cask between sixtyfive gallons and thirtyfive gallons, half of a pipe or hogshead; barrels, onefourth part of a pipe or hogshead, and smaller casks or kegs in proportion, according to the quantity of their contents of wine or spirits; for casks of linseed oil, the same as spirits; every hogshead of tobacco, fifty cents; every bushel of wheat, peas, beans or flax seed, three cents; every bushel of Indian corn or other grain, or salt, two cents; every

Tolls.

barrel of pork, fish, or beef, twentyfive cents ; every barrel of flour, fifteen cents ; every ton of hemp, flax or potash, one hundred and fifty cents ; every ton of manufactured iron, one hundred and twentyfive cents ; every ton of pig iron or castings, fiftytwo cents ; every ton of copper, lead or other ore than iron ore, one hundred and twentyfive cents ; every ton of stone or iron ore, twentyfive cents ; every hundred bushels of lime, fifty cents ; every hundred weight of cotton in seed, ten cents ; every hundred weight of clean cotton, forty cents ; every chaldron of coals, twentyfive cents ; every hundred pipe staves, eight cents ; every hundred hogshead staves, or pipe or hogshead heading, five cents ; every hundred barrel staves or barrel heading, four cents ; every hundred hogshead hoops, four cents ; every hundred barrel hoops, two cents ; every hundred cubic feet of plank or scantling, twenty five cents ; every hundred cubic feet of other timber, twenty cents ; every gross hundred weight of all other commodities or packages, eight cents ; all other produce, goods, wares or merchandise, onefourth of one per cent ; every boat or vessel which has not commodities aboard to yield so much, one hundred and fifty cents : *Provided*, that an empty boat or vessel returning, whose load has already paid at the respective places, the sums fixed at each, shall repass toll free : *Provided always*, that the said tolls shall be abated in cases where only a partial navigation shall be effected, in proportion to the length or distance through which any person or persons may pass ; and that such partial charges of toll shall be regulated by the president and directors of the company in such manner as they may think proper ; and if any person or persons shall refuse to pay the tolls at the time of offering to pass the places appointed for their collection and previous to passing the same, the collectors respectively may lawfully refuse passage to the person or persons so refusing ; and if any vessel shall pass without paying the toll, then the said collectors respectively, may lawfully seize such boat or vessel and sell the same at auction for ready money, after advertising the sale at least ten days ; the money arising from which sale, so far as is necessary, shall be applied towards paying the said tolls, and all expenses of seizure and sale, and the balance, if any, shall be paid to the owner ; and the person having the direction of such vessel shall be liable for such tolls if the same are not paid by the sale aforesaid.

9. *And be it further enacted*, That as soon as the said company shall have so far completed their works, as that they are ready for the transportation of produce, they shall advertise the same in three of the public newspapers of this State, and in one newspaper published in the town of Petersburg, in the State of Virginia ; and this legislature may, at the expiration of twentyfive years thereafter, and at the expiration of every twentyfive years thereafter, alter the rates of toll hereby established : *Provided*, that this legislature shall not at any time reduce the rates of tollage so as to reduce the profits arising therefrom, below fifteen per cent. upon the capital stock.

10. *And be it further enacted*, That the president and directors of the said company shall, every twentyfifth year, after their works

When works ready for transportation, company to advertise.

Returns to be made to General Assembly.

are completed, and ready for the transportation of produce, make return to this General Assembly of the amount of toll received by them for the preceding twentyfive years ; which return shall be sworn to before some one of the judges of the superior courts of law of this State, or in open court in some one of the courts of pleas and quarter sessions of this State.

The navigation to be a public highway.

11. *And be it further enacted*, That the navigation and works of the said company, done in pursuance of this act, when completed, shall be forever thereafter considered as public highways, free for the transportation of all goods, wares, commodities or produce whatsoever, on payment of the tolls imposed by this act ; and no other toll or tax whatever for the use of the water of the said navigation and works thereon erected, shall at any time hereafter be imposed without the consent of this legislature.

To purchase or condemn land, &c.

12. And whereas it may be necessary to complete the navigation aforesaid, that certain portions of land or rocks, or fish stands in the river, should be condemned for the purpose : *Be it further enacted*, That it shall be lawful for the president and directors, or a majority of them, to agree with the owners of any lands, rocks, sluices, or fish stands, through which the said navigation is intended to pass, for the purchase thereof ; and in case of disagreement, or if the owner shall be *feme covert*, under age, *non compos*, or out of the State, on application to any two justices of the county in which such lands, rocks, sluices or fish stands lie, the said justices shall issue their warrant to the sheriff of the said county, to summon a jury of eighteen freeholders, not related to the parties, and disinterested, to meet on the land to be valued at a day to be expressed in the said warrant, not less than ten nor more than twenty days thereafter ; and the sheriff, on the receipt of the said warrant, shall summon the said jury, and when met, shall administer an oath or affirmation to each of them, provided twelve or more appear, to wit : That he will impartially value the thing in question, and consider all damages the owner thereof may sustain, in consequence of being divested of his property therein ; and that he will not in his valuation, spare any person through favor, nor injure any one through malice or hatred. And the inquisition so taken shall be signed by the sheriff and twelve or more jurors, and returned to the clerk of the county to be recorded ; and in all such cases, the jury is directed to describe the thing valued, and their valuation shall be conclusive ; and the president and directors shall pay the same to the owners of the thing valued, or his legal representatives, and if neither can be found in the State, or if found, should refuse to receive the money, then to the clerk of the court of pleas and quarter sessions for the county, and on payment thereof, the said company shall be seized in fee of the thing valued, whether it be land, rocks, sluices or fish stands, in the same manner as if conveyed to them by the owners, by legal conveyance : *Provided*, that such condemnation shall not interfere with dwelling houses.

Toll-houses.

13. *And be it further enacted*, That the president and directors, or a majority of them, may agree with the proprietor or proprietors for any quantity of land not exceeding four acres at or near each

place intended for collecting the tolls aforesaid, for the purpose of erecting necessary buildings, and in case of disagreement or any of the disabilities aforesaid, or the proprietor or proprietors being out of the State, the same proceeding may be had, and the same consequences shall follow as are enacted in the preceding clause.

14. *And be it further enacted,* That it shall and may be lawful for every proprietor to transfer his or her share or shares by deed executed before two witnesses, and registered after proof of the execution in the company's books and not otherwise, except by devise; which devise shall also be exhibited to the president and directors, and registered, before the devisee shall be entitled to draw any part of the profits from the said tolls: *Provided,* that no transfer shall be made, except for one or more whole share or shares, and not for part of such shares, and that no share or shares shall at any time be sold, conveyed, transferred or held in trust for the use and benefit, or in the name of another, whereby the said president and directors, or proprietors, members of the said company, or any of them, shall or may be challenged or made to answer any such trust, but that every such person appearing as aforesaid to be a proprietor shall, as to the others of the said company, be to every intent taken absolutely as such; but between any trustee and the person for whose benefit such trust shall be created, the common remedy may be pursued.

Transfer of shares.

15. *And be it further enacted,* That if the said capital shall prove insufficient, it shall and may be lawful for the said company from time to time to increase their capital, by the addition of so many whole shares as shall be judged necessary by the proprietors, members of said company, or a majority of them who shall be present at any general meeting, and on such terms as the said general meeting shall think fit; and the said president and directors, or a majority of them, are hereby empowered and required, after giving one month's notice in one newspaper published in Petersburg aforesaid, and in one or more newspapers published at Raleigh aforesaid, to open books at the before mentioned places, for receiving and entering such additional subscriptions, in which the proprietors for the time being are hereby declared to have the preference of all others, for the first thirty days after the books shall be opened as aforesaid, of taking and subscribing for so many whole shares as any of them shall choose; and the president and directors are hereby required to observe in all other respects, the same rules therein as are by this act prescribed for receiving and adjusting the first subscriptions, and in like manner to return under the hands of any three or more of them, an exact list of such additional subscribers, with the sums by them respectively subscribed, into the secretary's office of the State of North Carolina, to be there recorded; and all proprietors of such additional shares shall, and are hereby declared to be from thenceforward, incorporated into the said company.

Capital may be increased.

16. *And be it further enacted,* That if the said company shall not complete the navigation so as to admit the safe passage of boats

When to complete the navigation.

through the same within ten years after the conclusion of the present war, all preference in favor of the said company in said navigation shall be forfeited: *Provided*, that if the said company shall, at the expiration of the said ten years, have completed twothirds of the said navigation, they shall have a further time of three years for completing the same.

Any defendant may give this act in evidence under the general issue.

17. *And be it further enacted*, That the said company and their successors, shall have the power of purchasing and holding, and selling real and personal estate; and if any person or persons shall be sued for any thing done in pursuance of this act, he or they may plead the general issue, and give this act and the special matter in evidence, and on a verdict against the plaintiff or plaintiffs, or nonsuit, or discontinuance, recover costs of suit.

No restrictions, &c. to be imposed on the company,

18. *And be it further enacted*, That the General Assembly of North Carolina shall not impose any restriction, duty or impost on commodities, manufactures, produce or merchandise transported by the said navigation, and that no distinction be made between the people of North Carolina and the people of Virginia: *Provided*, that this General Assembly may make such regulations, respecting the inspection of produce brought down the said river Roanoke and intended for exportation, as they shall think proper, making no distinction between the people of North Carolina and the people of Virginia. *And provided always*, that nothing in this act contained shall be construed to exempt from taxation, any lands or other property of the said company other than that immediately used for the navigation by this act contemplated to be effected.

Repealing clause, &c.

19. *And be it further enacted*, That all laws and parts of laws that come within the purview and meaning of this act are hereby declared void and of no effect, and that no part of this act shall be so construed as to interfere with the stipulations and provisions of an act passed at Raleigh in the year one thousand eight hundred and eleven, entitled "An act to incorporate a company for the purpose of cutting a navigable canal from Roanoke river and from the waters of Chowan river in this State, to some of the waters of James river in the State of Virginia, or to the Dismal Swamp canal."

AN ACT TO IMPROVE THE INLAND NAVIGATION OF THIS STATE,
SO FAR AS RESPECTS THE RIVER ROANOKE AND ITS WATERS.

(Passed at the session of 1815.)

1. *Be it enacted, &c.*, That for the purpose of improving the navigation of the Roanoke river, and its waters in this State; the stockholders in the Roanoke Navigation Company, incorporated by an act of the General Assembly, passed in the year of our Lord, one thousand eight hundred and twelve, entitled "An act for improving the navigation of Roanoke river from the town of Halifax to the place where the Virginia line intersects the same," shall make known to the governor of the State their acceptance or

rejection of this amended charter, on or before the first day of March next, and if they fail to make known their acceptance or rejection on or before the said day, it shall be held, deemed and taken to all intents and purposes, that the said stockholders do accept this amended charter, and that all their rights, privileges and franchises under the before recited act, shall thenceforward cease and determine, except as the same are granted and secured to them by this act. And in case of their acceptance either actually or impliedly as aforesaid, it shall and may be lawful to open books of subscription at Edenton, under the direction of Joseph B. Skinner, Josiah Collins, Jun. and James Iredell, or any two of them ; at Windsor, under the direction of David Stone, Joseph H. Bryan and Joseph Blount, or any two of them ; at Plymouth, under the direction of Reuben Carnall, Ezekiel Potter and Asa Hardison, or any two of them ; at Halifax, under the direction of Robert Johnson, Andrew Joyner and Thomas Burgess, or any two of them ; at Warrenton, under the direction of Peter R. Davis, Kemp Plummer and Robert H. Jones, or any two of them ; at Oxford, under the direction of Thomas B. Littlejohn, William M. Sneed and William V. Taylor, or any two of them ; at Person court house, under the direction of William Jeffreys, James Williamson and William M'Kissick, or any two of them ; at Caswell court house, under the direction of Solomon Graves, Barzilla Graves and Griffin Gunn, or any two of them ; at Milton, in Caswell county, under the direction of Thomas Boling, Warner Williams and Samuel Smith, or any two of them ; at Wentworth, in Rockingham county, under the direction of Robert Gallaway, James Campbell and Samuel Hill, or any two of them ; at Germantown, in Stokes county, under the direction of Thomas T. Armstrong, Jeremiah Gibson and Charles F. Bagge, or any two of them ; at Louisburg, under the direction of Green Hill, Jordan Hill and Robert A. Taylor, or any two of them ; at Raleigh, under the direction of William Boylan, Joseph Gales and Henry Seawell ; and at Elizabeth City, under the direction of Charles Grice, Anthony Butler and William T. Muse, or any two of them, for receiving subscriptions to the amount of three hundred thousand dollars for the said undertaking, which subscription shall be made personally or by power of attorney, and shall be in dollars ; and the said books shall be opened on the first day of March next, and be kept open until the first day of June next inclusive, and on the fourth Monday of the said month of June there shall be a general meeting of the subscribers at the town of Halifax aforesaid ; and the managers aforesaid, or any three of them, shall give notice of such meeting in one newspaper published in the town of Petersburg, in the State of Virginia, and in one or more of the newspapers published in the city of Raleigh, in this State, one month at least before the day for that purpose appointed, and such meeting shall and may be continued from day to day, until the business is finished ; and the acting managers shall then and there lay before said meeting the books by them kept containing a state of said subscriptions ; and if the capital sum aforesaid shall

Navigation company to notify the governor of their acceptance, &c. of amended charter.

Subscription books opened on first of March.

The treasurer shall subscribe for the State two hundred and fifty shares.

not have been subscribed, then the managers at Halifax aforesaid may continue during the said meeting to receive subscriptions to make up the said deficiency, and at such times and places, and on such conditions and terms as that or any other general meeting of stockholders shall direct, books may be opened for making up any deficiency that may still remain. The president and directors shall immediately after the said first meeting, and afterwards from time to time as often as owing to new subscriptions the same shall become necessary, make a list of the subscribers with the sums subscribed by each person, and return the same under their hands, or under the hands of any three of them, to the secretary of state to be by him recorded—and the capital sum aforesaid shall be divided into three thousand shares of one hundred dollars each; and any person may subscribe for one or more whole shares, but not for part of a share; the treasurer shall subscribe on behalf of the State on the books which shall be opened in the city of Raleigh, two hundred and fifty shares; and if more than three hundred thousand dollars shall be subscribed before the said first general meeting of the subscribers, the same shall be reduced to that sum by the managers, or a majority of them, by first striking off from the subscription on behalf of the State until the same is reduced to the capital aforesaid of three hundred thousand dollars, and if a greater sum remain than three hundred thousand dollars after the whole subscription on behalf of the State shall be stricken off, then the same shall be reduced by striking off a share from the largest subscriptions in the first instance, and continuing to strike off one share from all subscriptions under the largest and above one share, until the same is reduced to the capital aforesaid of three hundred thousand dollars, or until one share is taken from all subscriptions above one share, and lots shall be drawn between subscribers of equal sums to determine the numbers in which such subscribers shall stand on a list to be made for striking off as aforesaid; and if the sum subscribed still exceeds the capital aforesaid, then they shall strike off by the same rule until the sum subscribed is reduced to the capital aforesaid, or until all the subscribers shall be reduced to one share; and if there still be an excess, then lots shall be drawn to determine the subscribers who are to be excluded to reduce the subscription to the capital aforesaid: *Provided*, that unless fifteen hundred shares shall be subscribed before or at the meeting of the subscribers at Halifax aforesaid on the fourth Monday of June next, all the subscriptions made under this section of this act shall be void.

Style of corporation, &c.

2. *And be it further enacted*, That in case one thousand five hundred shares or more of said capital shall be subscribed as aforesaid, the 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 Roanoke Navigation Company;” and as such may sue and be sued, plead and be impleaded, defend and be defended, have perpetual succession and a common seal: and such of the said subscribers as shall be present at the said meeting, or a majority of them, are hereby empowered and required to elect a president and seven directors for conducting the said undertaking and man-

aging all the said company's business and concerns for and during such time, not exceeding one year, as the said subscribers, or a majority of them, shall think fit, and in counting the votes at all general meetings of the said company, each member shall be allowed one vote for every share as far as ten shares, and one vote for every five shares above ten 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 proved 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 as effectual to all intents and purposes as the presence or acts of his or her principal could or might be.

3. *Be it further enacted*, That the president and directors and their successors or a majority of them assembled, shall have power and authority to agree with any person or persons on behalf of the company to open and improve the navigation of Roanoke river, from its source to its mouth, so far as the same lies within this State; and also to open and improve the navigation of all streams in this State running into the said river, and to make such improvements by canals, locks or sluices, from place to place and from time to time, upon such terms as they shall think fit: and out of the said capital and 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, clerk, toll gatherers and such officers, managers and servants as they shall think requisite, and also to agree for their wages, settle and pass their accounts, and at their pleasure remove all or any of them and appoint others in their place, and also to establish rules of proceeding, 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 reposed in him: and that the allowance to be made to him shall not exceed three dollars in the hundred for the disbursements by him made, and that no officer of the said company shall have a vote in the settlement or passing his own accounts.

President, &c.
assembled,
may employ
persons, &c.

4. *Be it further enacted*, That the fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh, twelfth, thirteenth, fourteenth, fifteenth, seventeenth, eighteenth, and nineteenth sections of an act passed in the year one thousand eight hundred and twelve, entitled "An act for improving the navigation of Roanoke river from the town of Halifax to the place where the Virginia line intersects the same," shall be and the same are hereby declared to be revived and re-enacted for the benefit of said company, and shall constitute and form part of their charter.

Certain sections of the act of eighteen hundred and twelve revived.

5. *Be it further enacted*, That payments for shares subscribed

State subscriptions, how paid.

for in behalf of the State shall be made by the treasurer of the State : and the State shall stand upon the same footing with other subscribers as to the payments to be made for shares. But no payment shall be made by the State until the end of thirty days after the first general meeting of stockholders at Halifax as aforesaid.

Treasurer to vote for the State, &c.

6. *Be it further enacted,* That the treasurer of this State shall represent and vote on behalf of the State, in all general meetings of the stockholders : and in case of sickness or other cause which may prevent his personal attendance, he may appoint a proxy as in the case of individual subscribers.

President and directors may construct a turnpike road around the falls, &c.

7. *Be it further enacted,* That the president and directors of the said company be and they are hereby authorized to make or construct a turnpike road around the falls of the Roanoke river near the town of Halifax, if they shall deem the same to be advisable, until the navigation of the said river can be improved at the said falls by means of canals, locks and sluices, and to ask and receive the same tolls for commodities transported around the said falls along the said turnpike road as they would be entitled to, were the navigation improved for the transportation thereof in boats, and they are hereby authorized whenever the same shall be deemed advisable by a majority of the stockholders, out of the tolls which shall be received, to construct one or more toll bridges across the river Roanoke, or any of the streams which run into the said river.

Tolls as by s. 8. of act of 1812, may be altered.

8. *Be it further enacted,* That the rates of toll prescribed by the eighth section of the act aforesaid, passed in the year one thousand eight hundred and twelve, may be altered from time to time by the stockholders or a majority of them in a general meeting, and other tolls established at different places on the Roanoke river and the waters thereof, so that the profits arising from the whole of the said tolls shall not in any one year exceed fifteen per centum upon the capital stock aforesaid after payment of the sums allowed annually to the officers of the said company, expenses incurred for repairs and other incidental charges.

Treasurer authorized to obtain loans of the banks, &c.

9. *And be it further enacted,* That for the purpose of enabling the treasurer of this State to advance from time to time such sums of money as shall be required under this act, he is hereby authorized and directed to make a loan or loans on behalf of the State from the banks of Newbern and Cape Fear, for the sum of twentyfive thousand dollars, upon the terms mentioned in the amended charter granted to the said banks at the last session of the General Assembly.

Banks, &c. authorized to subscribe.

10. *And be it further enacted,* That the several banks in this State, and all other bodies politic and corporate, shall be and they are hereby authorized to subscribe for shares in said company, and to hold and enjoy the same in the same way with other subscribers.

Present stockholders to be compensated for surveys, &c. already made.

11. *Be it further enacted,* That the stockholders or a majority of them in a general meeting, shall have power to make compensation to the present stockholders who subscribed for shares under the charter granted by the act passed in the year one thousand

eight hundred and twelve as aforesaid, for surveys which they have procured to be made, and for such charts of those surveys as may be in their possession.

AN ACT DECLARING VALID THE PROCEEDINGS OF THE SUBSCRIBERS FOR IMPROVING THE NAVIGATION OF THE RIVER ROANOKE AND ITS WATERS, AT A GENERAL MEETING HELD IN THE TOWN OF HALIFAX, IN THIS STATE, ON THE FOURTH MONDAY OF OCTOBER, A. D. ONE THOUSAND EIGHT HUNDRED AND SIXTEEN, AND FOR OTHER PURPOSES.

(Passed at the session of 1816.)

Whereas an act passed at the last General Assembly, entitled "An act to improve the inland navigation of this State, so far as respects the river Roanoke and its waters," directed that books should be opened at a certain time, and at certain places, under the direction of certain persons named in the said act, for the purpose of receiving subscriptions to the amount of three hundred thousand dollars for improving the navigation of the river Roanoke and its waters; and whereas many of the persons so named failed to make returns of their books to the general meeting of the subscribers, held in the town of Halifax, in this State, on the fourth Monday of June last past, so that the acting managers could not then determine whether fifteen hundred shares had then been subscribed, and the subscribers then present continued their meeting by adjournment until the fourth Monday of October last past, at which time there being a general meeting of the said subscribers, held in the town of Halifax aforesaid, it appeared that fifteen hundred shares had been subscribed of the capital stock required for improving the navigation contemplated by the said act: Whereupon the said subscribers did proceed to organize "The Roanoke Navigation Company," and to appoint the president and directors thereof: And whereas doubts are entertained whether the said company has been legally organized, and the said officers legally appointed, for the purpose of removing said doubts and giving effect to the proceedings of the said subscribers, and to the spirit and meaning of the act aforesaid:

1. *Be it enacted, &c.*, That the proceedings of the subscribers for improving the navigation of the river Roanoke and its waters, at their general meeting held at the town of Halifax, in this State, on the fourth Monday of October last past, be and they are hereby declared to be legal and valid to every intent and purpose; and "The Roanoke Navigation Company," then and there organized and constituted, under the act passed at the last General Assembly, entitled, "An act to improve the inland navigation of this State, so far as respects the river Roanoke and its waters," is hereby declared to be legally organized and constituted under the said act; and the said company, so organized and constituted, shall have and be entitled to the rights, privileges and immunities by the said act

Proceedings at
Halifax sanc-
tioned.

granted, and be subject to the restrictions imposed by the same, and may forthwith proceed to improve the navigation of the river Roanoke and its waters, according to the intent and meaning of the said act ; and the officers of the said company then and there appointed, are hereby declared to be legally appointed under the said act, and they shall continue in office until the next general meeting of the stockholders, to be held in the town of Halifax aforesaid, on the fourth Monday of October next, and all subscriptions for shares, made upon the books mentioned in the preamble to this act, shall be binding upon the subscribers, in like manner as if the said books had been returned to the general meeting of the subscribers at Halifax aforesaid, on the fourth Monday of June last past, and in like manner as if it had then appeared that fifteen hundred shares had been subscribed before the said meeting, and the shares subscribed for on behalf of the State shall be paid for in like manner as shares subscribed for by individuals.

And whereas, in consequence of the doubts aforesaid, some of the said subscribers have not paid ten dollars upon each share by him, her or them subscribed, as directed by the before recited act : *Be it further enacted*, That ten dollars upon each share subscribed as aforesaid, shall be paid to the treasurer of the said company on or before the first day of January next, otherwise the president and directors of the said company may proceed to enforce such payments by legal process, or declare such share or shares forfeited as they may prefer, and each subscriber making such payment, shall be held, deemed and taken a stockholder in the said company, and shall make payment of the balances due on the shares by him, her or them holden, as the president and directors of the company shall order and direct ; and in case of failure to make such payment, shall be liable to the forfeitures imposed by the before recited act, and may be proceeded against in the way therein pointed out.

And whereas under an act passed in the year one thousand eight hundred and twelve, entitled " An act for improving the navigation of Roanoke river from the town of Halifax to the place where the Virginia line intersects the same," books were opened for the purpose of receiving subscriptions to the amount of one hundred thousand dollars, and subscriptions to a considerable amount were made upon the said books ; and many of the said subscribers are desirous that the sums so subscribed by them should be applied to the purpose of improving the navigation of the Roanoke river : *Be it further enacted*, that the said subscribers shall, on or before the first day of January next, make known to the president and directors aforesaid, the number of shares by them subscribed and by them wished to be retained ; and shall on or before the said day pay to the treasurer of the said company ten dollars upon each share by him, her or them subscribed, and wished to be retained as aforesaid ; and thereupon the said president and directors shall cause his, her or their names to be enrolled in the list of stockholders in said company, and he, she, or they shall be held, deemed and taken as a stockholder or stockholders in said company, and liable accordingly, to every intent and purpose ; and

Provision for
payment of
shares.

Former sub-
scribers re-
tained and en-
rolled in this
company.

all subscribers under the said act, failing to make known the number of shares by them subscribed and wished to be retained by them as aforesaid, on or before the said day, shall be held and taken to have relinquished all right under their said subscriptions, and their said subscriptions are in that case declared to be void.

2. *And be it further enacted*, That the annual meetings of the stockholders in the "Roanoke Navigation Company" shall hereafter be held in the town of Halifax, in this State, or at such place as the president and directors shall appoint, on the fourth Monday of October in each and every year, and in case the said stockholders, or a majority of them, shall fail to meet, in the town of Halifax, or at such place as the president and directors may appoint, on the day aforesaid, the president and directors elected for the preceding year shall continue in office until a meeting of the stockholders can be had.

Place of meeting.

And whereas doubts are entertained as to the dividends which the said company shall be entitled to receive: *Be it further enacted*, That the said company shall be entitled to receive dividends only upon so much of their capital stock as the stockholders shall actually pay for the purposes of the said navigation; and the General Assembly may from time to time call upon the president and directors for a statement of the capital stock actually paid by the stockholders as aforesaid, and of the amount of tolls received, which statement shall be rendered on oath.

Dividends on actual capital only, &c.

3. *And be it further enacted*, That the articles following shall be, and make part of the charter of the aforesaid company, and all parts of the before mentioned acts of one thousand eight hundred and twelve and one thousand eight hundred and fifteen, inconsistent with the said articles, shall be hereby repealed.—First.

Charter amended, viz.

The power of purchasing and holding real estate granted to the said company, by the said act of one thousand eight hundred and twelve, shall not extend to the purchasing or holding of real estate to a greater amount than fifty thousand dollars over and above that which may be necessary for carrying on the works of said company and making and constructing the turnpike road contemplated in the seventh section of the said recited act.—Second.

The power to hold real estate is limited to fifty thousand dollars over and above, &c.

That if the said company shall not open and complete the navigation of the said river and the tributary streams thereof, for the safe passage of boats within twenty years from and after the first day of January, one thousand eight hundred and eighteen, then all preference in favor of the said company in the navigation of the said river and streams respectively, so not improved, shall cease and be forfeited.—Third.

Navigation to be completed within twenty years from January, 1818.

The General Assembly may from time to time regulate and restrain the rates and tables of toll established by the said stockholders, if the said rates and tables shall in the opinion of the said General Assembly be more than sufficient to make the net profit of fifteen per centum on the stock, as provided in the before mentioned acts.—Fourth.

General Assembly may restrain and limit the tolls, if more than fifteen per cent.

And the company and stockholders aforesaid, shall within four calendar months after the adjournment of this General Assembly, notify his excellency the governor, of their acceptance or refusal of their charter, as by this act

Notice to be given of acceptance of this act.

amended, and if said company and stockholders shall fail to give such notification, such failure shall be construed an acceptance of the same, and in case the said company shall refuse to accept the amendments as aforesaid to their charter, then this act and every part thereof shall be of no effect or virtue whatever, but shall be absolutely void.

4. *And be it further enacted*, That this act shall be in full force immediately from and after the ratification thereof, any thing to the contrary notwithstanding.

AN ACT GIVING THE ASSENT OF THE GENERAL ASSEMBLY OF THE STATE OF NORTH CAROLINA, TO AN ACT PASSED BY THE GENERAL ASSEMBLY OF THE COMMONWEALTH OF VIRGINIA, CONCERNING THE NAVIGATION OF THE ROANOKE RIVER AND ITS BRANCHES.

(Passed at the session of 1817.)

Whereas, at a General Assembly of the Commonwealth of Virginia, begun and held on the eleventh day of November, in the year of our Lord one thousand eight hundred and sixteen, an act was passed by the said General Assembly, with the title, and in the words following, to wit :

The act of
Virginia,

“ An act to amend the act entitled, ‘ An act incorporating a company for the purpose of improving the navigation of Roanoke river and its branches.’ ”

Preamble.

Whereas it is represented to the General Assembly, that the State of North Carolina, by acts which have passed their legislature, in the years one thousand eight hundred and twelve, and one thousand eight hundred and fifteen, and one thousand eight hundred and sixteen, have incorporated a company to improve the navigation of that State so far as respects the river Roanoke and its waters ; that the company incorporated by the State of North Carolina for that purpose have secured their charter according to the conditions imposed upon them by the act of incorporation granted by the General Assembly of North Carolina, and have elected their president and directors for one year : it is indispensably necessary that the State of Virginia should aid this object, and assist an undertaking so extensively and intimately connected with the prosperity and interest of this State.

Regulations
for hiring ne-
groes.

1. *Be it further enacted*, That for the purpose of aiding and assisting the company so as aforesaid incorporated, the president and directors of the said company are authorized to hire slaves of the citizens of this Commonwealth, whether hired by them in trust for life, or absolutely for any term that may be agreed upon by the president and directors of the said company, or their duly authorized agent or agents, and the holder or owner of such slaves : *Provided*, that such slaves be employed when hired by said company, in and about their necessary work, in improving the navigation of the said river Roanoke ; and the president and directors of the

said company shall and may return the said slaves to their holders or owners when the term of service shall expire for which they may have been hired, and the holders or owners shall have full power and authority to receive such slaves so hired, without incurring any of the penalties imposed upon holders or owners of slaves for carrying out or bringing into the State any slave or slaves once carried out, any law to the contrary notwithstanding. But in all cases of slaves held upon trust, or for life only, the said president and directors, or their duly authorized agents, as the case may be, shall give bond with security to the persons so holding for life or in trust, that they will return the slave or slaves to the persons, or their legal representatives, of whom they were hired, at the expiration of their term. The said president and directors for the time being of the said company, are hereby authorized and empowered to recover, in any court of record in this Commonwealth, by motion, ten days previous notice thereof having been first given, their requisitions with costs of suit, including one dollar for sending the notices of any delinquent stockholder of the said company residing in the State of Virginia, who shall, within one month after such requisition is so made, fail to pay the same to the president and directors, or their duly authorized agent, previous notice having been given of such requisition being so made upon the holders by the president and directors, in some newspaper in the State of Virginia.

Mode of recovering instalments.

The interest of very many of the good people of this Commonwealth requires that the improvement of the navigation of the Roanoke river and its branches, capable of being made navigable both in North Carolina and Virginia, should be begun and completed as early as possible, and that the right to improve the navigation of the said river and its branches shall be vested in one company.

2. *Be it further enacted*, That the exclusive right to improve the navigation of said river and its branches, within the limits of the State of Virginia, shall be and the same is hereby vested in the company incorporated by several acts of the state legislature of North Carolina, passed in the years one thousand eight hundred and twelve, one thousand eight hundred and fifteen, and one thousand eight hundred and sixteen, for the purpose of improving the navigation of the Roanoke river, from where the Virginia line intersects the river to the Albemarle sound, and called the "Roanoke Navigation Company," that the powers of the president and directors of said company, now elected, and their successors, shall extend to and be exercised over the improvement of the said river and its branches, which are created and vested in them by the several acts of incorporation granted them by the State of North Carolina over that part of the river Roanoke which runs through the State of North Carolina; and the rights of the company to improve the navigation of the said river and its branches, with all other rights and powers created by this act, and vested in the company, shall be held, exercised and enjoyed in common both by the citizens of Virginia and the State of North Carolina, who are now or shall hereafter become stockholders in the said company; and that for and in consideration of the expenses the said

Rights of the North Carolina company extended to that part of the river and its branches which is in Virginia.

company shall be at, not only in cutting the canals, erecting locks, and other works for opening the different falls of the said river, and in improving and extending the navigation thereof, but in maintaining and keeping the same in repair, the said canals and works with all their profits, shall be and the same are hereby vested in the stockholders of the aforesaid company, who now are or shall hereafter become stockholders, their heirs or assigns forever, as tenants in common in proportion to their respective shares, and the same shall be deemed real estate, and be forever exempt from the payment of any tax, imposition or assessment whatever. It shall and may be lawful for the said president and directors to receive tolls, and fix them at such rates that the net profit to be received by the company, when they shall have completed the navigation of the said river and its branches within the State of Virginia and North Carolina, according to the conditions of their charter granted by that State, shall be fifteen per cent. exclusive of the expenses of officers' fees and all other charges annually incurred upon the capital stock created by the State of North Carolina, and which shall be added thereto by this law. But should the said company not expend the whole stock created by their acts of incorporation granted by the State of North Carolina, and the stock to be added thereto by this law, in the improvement of the navigation of said river and its branches, and the carrying into full effect their charter granted by the legislature of North Carolina; that then they shall only receive fifteen per cent. net profit upon so much of their capital as they shall actually have expended in carrying their several charters into full effect. The president and directors and their successors, or a majority of them, shall have full power and authority to agree with any person or persons on behalf of the said company, to cut such canals and erect such locks, and perform such other works as they shall judge necessary for opening, improving and extending the navigation of the said river and its branches, from the eastern boundary line between this State and the State of North Carolina, and carrying on the same from place to place and from time to time, and upon such terms and in such manner as they shall think fit, and out of the money arising from their stock subscribed, the tolls and other aid given, to pay for the same, and to repair and keep in order the said canals, locks and other works necessary thereto, and to defray all incidental charges, and to appoint toll gatherers, superintendents or agents, and fix their wages, and to pay them, and to make and establish rules of proceedings, and to transact all business and concerns of the company, not exclusively vested in the stockholders in their general meetings.

Powers of president and directors.

How lands to be condemned.

3. And the said president and directors, or a majority of them, shall have full power and authority to agree with the owners of any land, through which any canal is intended to pass, for the purchase thereof; and in case of disagreement, or the owner thereof shall be *feme covert*, under age, *non compos mentis*, or out of the State, on application to any two justices of the county in which such land shall lie, the said justices shall issue their warrant

under their hands to the sheriff of their county to summon a jury of twentyfour inhabitants of his county, possessing the same qualifications as jurors to serve in the superior courts of law in this Commonwealth, to meet on the land to be valued on a day to be expressed in the warrant, not less than ten nor more than twenty days thereafter, and the sheriff upon receiving the said warrant, shall forthwith summon the said jury, and when met, provided that not less than twelve do appear, which shall be a sufficient number to compose a jury, but if more, all that are present shall be empanelled on the jury, but if twelve do not appear, and there are bystanders possessing the necessary qualifications, then the sheriff shall with those that do appear empanel as many bystanders as will make a jury of twelve at least, which jury when empanelled shall, (to be administered by the sheriff,) take the following oath or affirmation, that they will faithfully, truly and impartially value the land not exceeding in any case the width of one hundred and sixty feet, and assess all damages the owner thereof shall sustain by cutting the canal through such lands according to the best of their skill and judgment, and that in such valuation, they will not spare any person through fear or affection, nor any person grieve through malice, hatred or ill will ; and the sheriff shall thereupon take an inquisition which shall be signed and sealed by the sheriff, and at least twelve of the jury ; in which verdict, if twelve of the jury concur, it shall be sufficient and as effectual as if all the jury had agreed in the verdict, which inquisition so taken by the sheriff shall by him be returned to the clerk of his county court, to be by him recorded upon the return thereof, and upon every such valuation it shall be the duty of the county surveyor to attend such jury, and he is hereby directed to describe and ascertain the bounds of the lands by the jury valued, and return a plat thereof to be recorded with the inquisition taken by the sheriff, and the valuation of the jury shall be conclusive and final upon all persons, and the damages by them found shall be paid by the president and directors to the owner of the land, or his or her legal representatives ; and on payment thereof, the said company shall be seized in fee of such land, and it shall be forever vested in them. For summoning and empanelling and attending the jury, and making his return, the sheriff shall receive four dollars. The surveyor for making any survey, making a plat and return thereof, five dollars ; and the clerk of the court for recording the inquisition and return, shall receive one dollar and ninetytwo cents, which fees shall be paid by the president and directors.

4. *Be it further enacted*, That all lands necessary for erecting Land for toll buildings near the place of receipt of tolls aforesaid, shall be valued, condemned and paid for as aforesaid, and the company shall houses. upon payment of the valuation of the said land, be seized thereof in fee simple as aforesaid. Should it happen that twelve of any jury which may be empanelled under this law cannot agree in a verdict, it shall be lawful for the sheriff to discharge such jury, and make return upon the warrant of the fact to the justices issuing such warrant, or any other two justices in the county, who

shall thereupon issue another in the same manner as if no warrant had ever issued, and the same proceedings shall be had as if no warrant had issued and shall be in like manner proceeded in until a jury shall be had, twelve of whom shall agree in a verdict ; but no juryman shall be summoned by the sheriff upon any subsequent jury who was sworn upon any divided jury ; and in all such new proceedings, the sheriff and surveyor shall receive the same fees for each jury to be paid for in like manner as are allowed to them in the third section of this act.

And whereas, some of the places through which it may be necessary to conduct the said canals may be convenient for erecting mills, forges and other water works, and the person possessing such situation may design to improve the same :

Water works.

5. *Be it therefore enacted,* That the water, or any part conveyed through any canal cut or made by the said company shall not be used for any purpose but navigation, unless the consent of the proprietors of the lands through which the same shall be led, be first had, and the said president and directors, or a majority of them, are hereby empowered and directed, if it can be conveniently done, to answer both the purposes of navigation and the water works aforesaid, to enter into reasonable agreements with the proprietors of such situations, concerning the just proportion of the expenses of making large canals or cuts, capable of carrying such volume or volumes of water as may be sufficient for the purposes of navigation, and also for any such water works as aforesaid ; but in no case whatever, shall the owner or proprietor of such land, through which any canal may be cut as aforesaid, withdraw from any canal, cut by the aforesaid company, the water therefrom for the purpose of working any mill, forges or other water works whatever.

River a public highway.

6. *And be it further enacted,* That the said river and its branches are now declared, and the works to be erected thereon in virtue of this act, when completed, shall forever thereafter be esteemed and taken to be navigable as a public highway, free for the transportation of all goods, commodities or produce whatever, on payment of the tolls imposed by this act.

A capital of two hundred thousand dollars created.

7. *Be it further enacted,* That to enable the said company to improve the navigation of the said river and its tributary streams, according to the provisions of this act, a capital stock of two hundred thousand dollars, in addition to their stock created and granted them by the General Assembly of North Carolina, is hereby created, which shall be divided into two thousand shares of one hundred dollars each ; and that the stockholders of the aforesaid company at their next general meeting, whether it be their annual or general meeting called by the president and directors, shall open books at such places, and under the management of such commissioners as they may think proper to appoint, that no person shall subscribe for a part of a share or shares, but for one whole share at the least, and that upon the shares so subscribed the persons or bodies politic or corporate subscribing shall pay, on the first day of December next, to the said president and directors or a major-

ity of them, ten per cent. upon each share subscribed, and such requisitions as the said president and directors, or a majority of them, may make, so that they shall not on any subscription exceed thirtythree and onethird per cent. in any one year.

And for all shares not subscribed for the first day of December next, the commissioners appointed by the stockholders at their general meeting shall continue their books open, and shall be subject to any further directions of the stockholders in their general meetings, who may, if necessary, appoint other or additional commissioners at the same or other places until they shall dispose of the stock created by this law.

That for all stock subscribed for after the first day of December next, at the time of subscribing ten per cent. shall be paid ^{Instalments} _{how paid.} upon each share so subscribed for, and such requisitions as the president and directors, or a majority of them, may make, so that they do not exceed thirtythree and onethird per cent. in any one year.

That the said commissioners shall at every general meeting of the stockholders held after their appointment, return their books ^{Commissioners} _{to return books to president and directors, &c.} of subscription to the president and directors, or a majority of them, and at the same time account for the money received by them, and in the event of their failure to pay the money so received, the said president and directors may, upon ten days previous notice being given to such commissioner, recover the amount by him so received with costs, and fifteen per cent. damages until payment, in any court of record in this State : and in the event of more than two thousand shares being subscribed, the stockholders at their next general meeting, after the books are closed, shall strike from the shares of those having the highest number until the stock shall be reduced to two hundred thousand dollars ; and should it happen that two or more persons should hold an equal number of shares which stand the highest upon the list, that then the stockholders shall decide by ballot, from whose stock the shares are to be taken ; always striking from the highest number until the stock shall be reduced to two hundred thousand dollars.

The several banks in this State and all bodies politic and corporate, shall be and they are hereby authorized to subscribe ^{Banks may} _{subscribe.} for shares in the said company, and to hold and enjoy the same in the same way as individuals, subject to the same restrictions and modes of recovery.

8. *Be it further enacted,* That whenever the said president and directors, or their successors, shall make requisitions upon the stockholders for payment of any part of their stock, they shall give one month's public notice of such order of requisition so made, in some newspaper published in Petersburg, the borough of Norfolk, and Raleigh in the State of North Carolina, and if upon such requisitions so made, and notice given, any stockholders shall fail to make immediate payment of the requisition so made, the president and directors, upon motion in any court of record in this Commonwealth, having given ten days previous notice of such motion, may recover judgment of any delinquent stockholder for ^{Regulations for} _{collecting instalments.}

such requisitions so made upon him and costs of motion, including one dollar for service of notice, and sue out execution thereon, upon which the clerk shall endorse, "no security of any kind to be taken," and such execution shall be directed to the sheriff of the county or serjeant of the town, city or borough, where such delinquent shall then or last have resided, who shall without delay proceed to levy the same, and if the officer to whom such execution is directed shall fail to make the debt and costs due thereon, and shall make a return of *nulla bona* as to part or the whole of the execution, then and in that case, the president and directors shall immediately proceed to advertise such delinquent stock one month in some one newspaper in Virginia and North Carolina, and sell so much of the stock, as is delinquent, for cash, as will satisfy and pay whatever balance of debt and costs may be due the company, and after deducting what may be due, with the costs of advertising and other incidental charges of sale, shall pay over any overplus in their hands to the original subscriber, and the stock so sold shall be held by such purchaser, subject to any future requisitions which may after such sale be made by the president and directors, as it would have been in the hands of the first holder, and in all things the purchaser shall be substituted in the place of the original holder, and in all such sales the president and directors shall convey the stock so sold to the purchaser by deed, stating the cause of sale, which deed shall be duly recorded in the county court where the last holder lived, as other deeds for real estate, and registered on the books of the company.

How shares
may be trans-
ferred.

It shall and may be lawful for said stockholders to transfer their share or shares of stock by deed executed in the presence of two witnesses, or the execution thereof acknowledged by the party thereto, and recorded in the county or corporation court where the holder lives at the time of the sale, and registered in the books of the company, but in no case shall a transfer of a part or parts of a share or shares be made either by deed or will, and in all cases of stock cast by descent or devised by will, the descent cast or devise made shall be entered on the books of the company, and if any stockholders shall die intestate and his shares shall descend to his distributees, and upon division thereof, the shares cannot be equally divided between such distributees, without dividing shares into parts of shares, such shares as cannot be divided in entire shares shall be sold for their benefit, and the proceeds divided between them according to their respective rights: *Provided*, that no transfer whatever shall be made, conveyed or held in trust for the use and benefit, or in the name of another, whereby the president and directors or proprietors of the said company or any of them, shall or may be made to answer concerning any such trust, but that every person appearing as aforesaid to be a proprietor, shall as to the others of the said company, be to every intent taken absolutely as such, but between any trustee and the person for whose benefit any trust shall be created, the common remedy may be pursued.

Names of
stockholders to

9. *Be it further enacted*, That the said president and directors,

or a majority of them, shall make out a fair list under their hands and seals of the names of stockholders, their places of residence, and the number of shares subscribed for by each stockholder under this act, to the county court of Mecklenburg, which list so returned shall be recorded by the clerk, who shall grant a certificate to each stockholder, certifying the number of shares by him held; for recording which return and granting the certificate, the clerk may demand and receive of each stockholder fifty cents, which certificate shall be legal evidence of the stockholder's right to his stock, and a like list, certified by the president and directors or a majority of them, shall be registered on the books of the company at some of the general meetings of the stockholders.

be returned to Mecklenburg county court and there recorded.

10. *Be it further enacted*, That the board of public works in this State are authorized and required to subscribe the sum of eighty thousand dollars towards the stock of the Roanoke Navigation Company, upon condition that the State of North Carolina shall give its assent to this act. The said subscription to be upon the same terms in all respects with that of the State of North Carolina to the stock of the Roanoke Navigation Company.

State to subscribe eighty thousand dollars, provided, &c.

11. *And be it further enacted*, That if the capital stock created by the State of Virginia and North Carolina, shall prove insufficient to improve the navigation of the said river and its branches, the stockholders in general meeting shall have power to open books in the same manner, and upon the same terms and principles, as they are authorized by the charter of the State of North Carolina, and they shall authorize as many shares, of one hundred dollars each, to be taken in Virginia as are authorized by the State of North Carolina, and the stockholders shall, as in the charter of North Carolina, be allowed thirty days from the opening such books in exclusion of all other persons to take such stock.

Books may be opened for increase of capital.

And if the said stock is not taken by the said stockholders in thirty days, then such stock, as shall remain unsubscribed for, may be subscribed for by any person, body politic or corporate, under such restrictions as to time of payment as the stockholders may impose, and the stockholders subscribing for the stock thus created by the stockholders shall have, use, and be entitled to all the rights, privileges and immunities of the original stockholders, and be subject to the like rules and regulations, and their shares to be recorded and registered in like manner, and in case of delinquency in payment of requisitions liable to the same mode of recovery.

12. *Be it further enacted*, That nothing in this act contained, shall prohibit the General Assembly of Virginia from passing acts for the incorporation of companies to cut canals from the river Roanoke, or any of its tributary streams, so as to connect the waters thereof, with other rivers or streams: *Provided*, that the legislature shall not withdraw from the said river or its tributary streams or canals, cut or constructed thereon, so much of its waters as to interfere with the rights secured to the aforesaid company, or to impair the navigation which the said company is hereby authorized to improve.

Right retained by Virginia.

Tolls.

The said president and directors, and their successors, shall from time to time, for the use of the navigation of the said river, its tributary streams and canals constructed thereon, graduate a scale of tolls so as to make the tolls by them to be imposed bear a just proportion to different designated points of distance.

Dividends.

13. *Be it further enacted*, That after deducting the necessary expenses for the current year, the dividends of the profits arising upon the stock created by this charter, shall be declared and divided between the stockholders, in proportion to the number of shares each shall hold, at the same time, and in the the same manner, as the dividends are directed to be made and declared between the stockholders by the acts of incorporation granted the aforesaid company by the General Assembly of North Carolina.

The president and directors of the said company for the time being shall cause to be set up, and continually kept up, at all their toll gates, at the respective toll houses they may erect, the rates of toll that may be established, so that an effectual check may be imposed upon the collectors of tolls.

Report to General Assembly.

14. *Be it further enacted*, That at the same times, and in the same manner, that the charter granted by the state legislature of North Carolina to the said company, requires that their president and directors shall report to that legislature a correct transcript of their rates of tolls imposed by the company, the tolls received, and their expenditures, shewing the amount of their dividends of clear profit upon their stock, that the said president and directors shall make a like report to the General Assembly of Virginia. And if it shall appear from their reports so made, that the president and directors of the said company have exacted greater tolls than have yielded them the clear profits allowed by this charter, and the charter of North Carolina, the General Assembly of Virginia reserves to itself the right of thereafter regulating the tolls of said company, so that such regulations shall not diminish their net profit below fifteen per cent. upon their capital actually expended according to their charter.

How much real estate company may hold.

15. *Be it further enacted*, That the said company, in addition to the land the company are authorized to condemn, for the purpose of cutting their canals, may acquire real estate in the State of Virginia to the amount of fifty thousand dollars in its original cost, which they shall have the power to alienate, should the interest of the company require it. And the said company shall have power to acquire by purchase, personal estate, and dispose of it when their interest may require it.

Hands hired or purchased may be employed in either State.

The said president and directors, may and shall have the power to employ their hands hired or purchased, in Virginia or North Carolina, as the interest of the company may require, without incurring any of the penalties of the laws against bringing slaves into this State; but this privilege shall not extend to the company the right of selling in this State any of the slaves by them purchased in any other State than Virginia.

Collection of tolls.

16. *Be it further enacted*, That it shall and may be lawful for the said president and directors for the time being, to demand and

receive tolls at the several places they shall establish for the receipt thereof, and in case of refusal or neglect to pay the tolls at the time of offering to pass through the places aforesaid, and previous to the vessel's passing through the same, the collector of the tolls may lawfully refuse passage to such vessel, and if any vessel shall pass without paying the said tolls, then the said collector may seize such vessel, wherever found, and sell the same at auction for ready money, which, so far as may be necessary, shall be applied towards paying the said tolls and all expenses of seizure and sale, and the balance, if any, shall be paid to the owner, and the person having the direction of such vessel shall be liable for such toll, if the same is not paid by the sale of such vessel as aforesaid.

17. *Be it further enacted,* That in case the said company shall not complete their works, and the improvement of the navigation of said river and its tributary streams, by the first day of January, one thousand eight hundred and fortythree, then shall all the interest of the said company under this charter and all preference in their favor as to the navigation and toll aforesaid, be forfeited and cease.

When navigation must be completed.

18. *Be it further enacted,* That at the next general meeting of the stockholders of the Roanoke Navigation Company, created by the legislature of the State of North Carolina, whether it be called or their annual general meeting, the said stockholders shall declare their acceptance or rejection of this charter, with its conditions and limitations as created and vested in them by this act; and if they accept the charter, a resolution shall be adopted by them declaring their acceptance with its condition, which shall be inserted in their proceedings at large upon their books; a copy of which resolution, certified under the hand and seal of their chairman and secretary, and countersigned by their president, shall be transmitted to the executive of the State of Virginia, and the governor of North Carolina, which resolution shall form a part of the communication of the governor to the General Assembly of Virginia at their next session.

The company to accept or reject this act, &c.

19. *And be it further enacted,* That should the aforesaid company accept the charter offered to them by this law, that then the law passed the nineteenth day of February, one thousand eight hundred and sixteen, entitled "An act incorporating a company for the purpose of improving the navigation of Roanoke river and its branches," shall be and the same is hereby repealed, but should the charter aforesaid be rejected by the aforesaid company, that then the said act shall remain in full force, and although the said company should reject this charter, their rejection shall not impair the first and second sections of this act.

Conditional repeal of former act.

20. This act shall be in force from the passing thereof."

Now, be it enacted by the General Assembly of the State of North Carolina, That the assent of the State of North Carolina be, and the same is hereby given to the said act; and the Roanoke Navigation Company shall have, exercise and enjoy all the rights, franchises and privileges given by the said act, subject to the limitations and restrictions therein contained; but nothing contained

Assent of North Carolina given to the aforesaid act.

Reservation of right. in the said act, or in any other act, heretofore passed, respecting the navigation of Roanoke river and its branches, shall be construed to prohibit the General Assembly of the State of North Carolina from passing acts for the incorporation of companies to cut canals from the river Roanoke, or any of its tributary streams, so as to connect the waters thereof with other rivers or streams: *Provided*, that the legislature shall not authorize the withdrawal from the said river or its tributary streams or canals cut or constructed thereon so much of its waters as to interfere with the rights secured to the aforesaid company, or to impair the navigation which the said company is authorized to improve: *And provided further*, that the State of North Carolina shall at any time have the right to increase her subscription to the stock of said company, so that her whole interest in the said stock shall not exceed the sum of eighty thousand dollars.

Notice of acceptance of this act.

21. *And be it further enacted*, That the stockholders of the Roanoke Navigation Company, shall, within four calendar months after the first day of January next, notify his excellency the governor of their acceptance or refusal of their charter as by this act amended, and if said company and stockholders shall fail to give such notification, such failure shall be construed an acceptance of the same.

And if the said company shall refuse to accept of the amendments aforesaid to their charter, then this act and every part thereof shall be of no effect or virtue whatever, but shall be absolutely void.

Toll not to exceed fifteen per cent.

Provided, nothing in this act shall be construed to deprive the legislature of North Carolina of regulating the toll of said company within the said State so as to prevent the net profits from exceeding fifteen per cent.

AN ACT CONCERNING THE ROANOKE NAVIGATION COMPANY.

(Passed at the session of 1819.)

General meeting second Monday of November.

1. *Be it enacted, &c.*, That the general meeting of the stockholders of the Roanoke Navigation Company shall hereafter be held on the second Monday in November, in each and every year, or at such other time as the stockholders in general meeting may appoint, any law to the contrary notwithstanding.

Proviso.

2. *And be it further enacted*, That this act shall be in force whenever the General Assembly of Virginia shall pass an act to the same purport and effect.

AN ACT CONCERNING THE ROANOKE NAVIGATION COMPANY.

(Passed at the session of 1823.)

Board for internal improvements is authorized to sub-

1. *Be it enacted, &c.*, That the president and directors of the Board of Internal Improvements, shall, if they deem it expedient, subscribe for and in behalf of the State, for two hundred and fifty

shares in the capital stock of the Roanoke Navigation Company, in addition to the shares already subscribed for and owned by the State in the stock of that company ; payment for which additional shares shall be made by the public treasurer, by order of the president and directors of the said Board of Internal Improvements, out of any money in the public treasury not otherwise appropriated, at such times and in such amounts as said board shall direct : *Provided*, that it shall be a condition of such subscription made by the Board of Internal Improvements with the directors of the Roanoke Navigation Company, that the said money shall be applicable only to the expense of locking down from the basin at Weldon's orchard into the river.

scribe twenty-five thousand dollars ; which is to be paid out of the public treasury.

The condition of the subscription.

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

(See the Cape Fear Navigation Company. Act of 1832.)

CAPE FEAR NAVIGATION COMPANY.

AN ACT TO IMPROVE THE NAVIGATION OF CAPE FEAR RIVER, AND OF DEEP AND HAW RIVERS.

(Passed at the session of 1796.)

WHEREAS the navigation of Cape Fear river from Avarysborough up to the confluence of Deep and Haw rivers, and of each of the said rivers as far as the same can be effected, would be of important public utility ; and many persons are willing to subscribe money to effect the work, and it is just that such subscribers, their heirs and assigns, shall receive reasonable tolls in satisfaction for the money advanced by them to execute the said work, and for the risk they run :

1. *Be it therefore enacted, &c.*, That it shall be lawful to open books of subscription at Ramsey's and Stokes's mill, in Chatham county, on Deep river, under the management of John Ramsey and Thomas Stokes at said mill ; and at Henry Branson's in Randolph county, under the management of Henry Branson, for receiving and entering subscriptions to the amount of eight thousand dollars for the said undertaking ; which subscriptions shall be made personally or by power of attorney, and shall be in Spanish milled dollars, but may be paid in other silver or gold coin of the same value ; that the said books shall be opened for receiving subscriptions on the first day of May next, and continue open until the first day of August next, inclusive : and on the tenth day of August there shall be a general meeting at Pittsborough in Chatham county ; of which meeting notice shall be given by the said managers at least twenty days before the said meeting, and such meeting shall and may be continued from day to day until

Books of subscription, under whose direction and when and where to be opened.

the business is finished ; and the acting managers shall, at the time and place aforesaid, lay before such subscribers as shall meet according to the said notice, the books by them respectively kept, containing a state of the said subscriptions ; and if one half of the capital sum aforesaid should on examination appear not to have been subscribed, then the said managers are empowered to take and receive subscriptions to make up the deficiency ; and in case more than eight thousand dollars shall be subscribed, then the same shall be reduced to that sum by the said managers, or a majority of them, by beginning at and striking off from the largest subscription or subscriptions, and continuing to strike off a share from the subscriptions above one share, until the sum is reduced to the capital aforesaid of eight thousand dollars, or until a share is taken from all subscriptions above one share ; and lots shall be drawn between subscribers of equal sums, to determine the number in which such subscribers shall stand on a list to be made for striking off as aforesaid ; and if the sum subscribed still exceeds the capital aforesaid, then they shall strike off by the same rule, until the sum subscribed is reduced to the capital aforesaid, or all the subscribers are reduced to one share ; and if there still be an excess, then lots shall be drawn to determine the subscribers who are to be excluded, to reduce the subscriptions to the capital aforesaid ; which striking off shall be certified in the list aforesaid : and the said capital sum shall be reckoned and divided into three hundred and twenty shares of twentyfive dollars each, of which every person subscribing may take and subscribe for one or more whole shares, and not otherwise. *Provided always,* That unless one half of the said capital shall be subscribed, all subscriptions made in consequence of this act shall be void ; and in case one half and less than the whole of the said capital shall be subscribed as aforesaid, then the directors are hereby empowered and directed to take and receive the subscriptions, which shall be first offered in whole shares as aforesaid, until the deficiency shall be made up ; a certificate of all such subscriptions shall be made under the hand of the directors, or a majority of them, for the time being, and be returned to and recorded in the county court of Chatham.

When half the capital is subscribed the company declared to be incorporated, and to elect a president, &c.

2. *Be it further enacted,* That in case one half of the said capital or a greater sum shall be subscribed as aforesaid, the said subscribers and 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 the name of the Deep and Haw River Company, and may sue and be sued as such. And such of the said subscribers as shall 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 said company's business and concerns, for and during such time not exceeding five years, as the said subscribers or a majority of them shall think fit. And in counting the votes of all general meetings of said company, each subscriber shall be allowed one vote for every share as far as five shares, and one vote for every three shares above five, 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 justice of the peace, and certified, may depute any member to act as proxy for him or her at any general meeting.

3. *Be it further enacted*, That the president and directors so elected, and their successors, or a majority of them assembled, shall and may have power and authority to agree with any person or persons on behalf of the company, to open and improve the navigation of Cape Fear and Deep and Haw rivers aforesaid, by canals, locks or sluices, from place to place, and from time to time, upon such terms as they shall think best : and out of the said capital and money arising from tolls, shall and may pay for making and repairing all works necessary for the navigation ; and also to appoint a treasurer, not one of their body, but yet a proprietor ; clerk, toll gatherer, and such officers, managers and servants as may be requisite, and to agree for their wages, settle and pass their accounts ; and also to establish rules of proceeding, and generally to transact all the business of the company in the intervals between the general meetings of the same ; and they shall be allowed by the company at their general meetings, a reasonable sum for their trouble. *Provided*, that the treasurer shall give bond and security as the president and directors shall direct ; and that no officer in the company shall have a vote in settling or passing his accounts.

President, &c.
to agree for
opening the
navigation, &c.

To appoint of-
ficers, &c.

4. *And be it further enacted*, That each subscriber shall pay for every share, at the first general meeting to be had on the tenth day of August next, at the town of Pittsborough in Chatham county, the sum of five dollars per share, to the treasurer of the company ; and the names of those who fail to pay, then and there shall be struck off the books, and others complying with this regulation may take such shares ; and the president and directors, and their successors, or a majority of them, shall have power from time to time, as money may be wanted, to make and sign orders for that purpose, and direct at what times, and in what proportion the subscribers shall pay the sums subscribed ; which order shall be advertised in the Fayetteville Gazette at least three weeks. *Provided*, that the president and directors shall not demand from the subscribers more than ten dollars per share in one year ; and if any of the subscribers shall fail to pay their proportion required, within one month after the same is so advertised, the president and directors, or a majority of them, may sell at public auction and convey to the purchaser, the shares of the subscriber so failing, giving at least twenty days' notice in the gazette aforesaid ; and all such sales shall be at Pittsborough aforesaid, and the purchasers of such shares shall be subject to the same regulations, as if the sale and conveyance had been made by the proprietors.

Payments
when and how
to be made, &c.

5. *Be it further enacted*, That from time to time at the expiration of the term for which the president and directors may be appointed, the subscribers at their next general meeting, may continue them or any of them, or choose others in their stead ; and in case of death, resignation, removal, or incapacity of any of

President, &c.
how continued,
&c.

them, may elect others ; and may also at any of their general meetings, remove the president or any of the directors, and appoint others for the remainder of the time for which such person or persons were to have acted.

President, &c.
to take oath,
and general
meetings when
and where
held, &c.

6. *Be it further enacted*, That every president and director, before he proceeds to act, shall take an oath or affirmation for the faithful discharge of his office. And that there shall be a general meeting of the proprietors at Pittsborough in Chatham county, on the tenth day of August annually after the first meeting, who shall sit as long as the necessary business may require ; and the president and directors shall make report, and render just and distinct accounts of all their proceedings ; and the proprietors present, or a majority of them, if they find the accounts just, shall grant a certificate thereof, and make a statement of the same on the books of the company : and at such yearly general meetings, after leaving in the hands of the treasurer such sum as the majority of the proprietors shall judge necessary for repairs and contingent charges, an equal dividend of the profits arising from the tolls by this act granted, shall be made among the proprietors in proportion to their several shares. And on any emergency, the president or a majority of the directors, in the interval between the yearly meetings, may call a general meeting of the company at Pittsborough in the county of Chatham aforesaid, giving thirty days' notice as aforesaid.

Property vested
in the company,
&c.

7. *Be it further enacted*, That for the expenses the company must incur in cutting canals, erecting locks, making roads, and doing various things necessary for this navigation, the said canals locks, roads and every work and thing appertaining to the said navigation, with all the profits arising from the same or any part thereof, shall be and they are vested in the said company, their heirs and assigns for ninety nine years, as tenants in common in proportion to their respective shares ; and the same shall be deemed real estate, and shall be exempt from the payment of taxes, imposition or assessment. And the tolls which the company shall or may demand for every thing brought down, or carried up through their navigation, or any part thereof, shall be as followeth, to wit : For every pipe or hogshead of wine containing more than sixty five gallons, fifty cents ; for every hogshead of rum or other spirits, fifty cents ; for every hogshead of tobacco, thirty three and one third cents ; for every cask between sixty five and thirty five gallons, half of a pipe or hogshead ; barrels one fourth part, and smaller casks or kegs in proportion according to the quality and quantity of their contents of wine or spirits ; for casks of linseed oil, the same as spirits ; every bushel of wheat, peas, beans, or flaxseed, two cents ; for every bushel of Indian corn or other grain, or salt, two cents ; for every barrel of pork or beef, twenty five cents ; for every barrel of flour, ten cents ; for every ton of hemp, flax, potash, bar or manufactured iron, one hundred cents ; for every ton of pig iron, or casting, one hundred cents ; for every ton of copper, lead or other ore, (except iron,) one hundred cents ; for every ton of stone or iron ore, twenty five

Rates of toll,
&c.

cents ; for every hundred bushels of lime, one hundred cents ; for every chaldron of coals, twentyfive cents ; for every hundred pipe staves, five cents ; for every hundred hogshead staves, pipe or hogshead heading, five cents ; for every thousand hoops, twentyfive cents ; for every hundred barrel staves or heading, two cents ; for every hundred cubic feet of lumber, ten cents ; and for every gross hundred weight of all other commodities or packages, five cents ; and that every empty boat that has carried its load, and and paid the tolls, on its return shall pass free from tollage. And the president and directors shall enter the said regulations of toll in their books : and it shall be lawful for the president and directors at all times hereafter to receive the tolls so assessed on all goods, produce and commodities which shall be transported through the navigation of the said company, or any part thereof ; and they may demand the toll at such place or places as they shall think proper. And if any person shall refuse to pay the toll so laid as aforesaid, the collector may deny passage : and if any person so refusing to pay, shall pass through the navigation, it shall be lawful for the collector to seize vessel and cargo, wherever found ; and after ten days' public notice sell the same, or as much thereof, at public auction, for ready money, as may be necessary to pay the toll and all expenses ; and the surplus of such sale, if any, shall be returned to the owner.

3. *Be it further enacted*, That the president and directors, or a majority of them, may agree with the proprietors for any quantity of land not exceeding ten acres, at or near the places intended for collecting the toll aforesaid, for the purpose of erecting necessary buildings ; and in case of disagreement, a jury of twelve good and lawful men shall be summoned ; and their valuation shall be the price which the company shall pay : and in case the proprietor refuse to receive the money, it shall be paid into the clerk's office of the county where the land lieth, and by him recorded, together with the location and bounds of the land ; and shall be deemed a conveyance in fee, as fully and amply as if made by the proprietor to the said company. *Provided*, that nothing herein contained, shall be construed to authorize the president and directors to seize on or take any part of the cleared land of any inhabitant, but with his consent.

9. *Be it further enacted*, That it shall be lawful for every of the proprietors to transfer his share or shares by deed executed before two witnesses, and registered after proof of execution, in the company's books, and not otherwise, except by devise ; which devise shall also be exhibited to the president and directors, and registered before the devisee shall be entitled to receive any part of the profits from the said tolls. *Provided*, that no transfer shall be made for parts of a share, and that no share shall be transferred, or held in trust for the use and benefit, or in the name of another, whereby the president and directors, or any of them, may be made to answer any such trust ; but that every such person appearing as aforesaid to be a proprietor, shall as to the rest of the company be considered to every intent as a proprietor ; but

Manner of obtaining lands, &c. for buildings.

Manner of transferring shares, &c.

between any trustee, and the person for whose benefit any trust may be created, the common remedy may be pursued.

Time granted for finishing the work.

10. *Be it further enacted*, That if the said company shall not complete the said navigation within ten years after the passing this act, the preference in favor of the said company with respect to the said navigation shall be forfeited.

Company may hold, &c. real estate.

11. *Be it further enacted*, That the said company and their successors, shall be capable of purchasing, holding and selling real and personal estate; and if any person shall be sued for any thing done in pursuance of this act, he may plead the general issue, and give the special matter in evidence; and on a verdict against the plaintiff, or nonsuit or discontinuance, recover costs of suit.

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO IMPROVE THE NAVIGATION OF CAPE FEAR RIVER, AND DEEP AND HAW RIVERS."

(Passed at the session of 1797.)

Whereas the time appointed by the before recited act is found inconvenient for the meeting of the proprietors of the Cape Fear, Deep and Haw Rivers Navigation Company :

Annual meeting, &c.

1. *Be it enacted, &c.*, That the future annual meetings of the proprietors aforesaid, shall be on the second Monday in February, at Pittsborough, or at any other place within the county of Chatham, which they may find hereafter to be more convenient to adjourn to.

Power to remove obstructions, &c.

2. *Be it further enacted*, That the president and directors of the company aforesaid, shall have power to remove, or shall cause to be removed, all fish dams, traps, hedges or other obstructions, except mill dams, which they shall deem to be in the way of the navigation of the rivers aforesaid. *Provided*, that the said president and directors shall not have power to remove the said traps or stands until they shall have completed the navigation of the said rivers up to the places where such fish traps and stands are situated.

To close the books of subscription.

3. *And be it further enacted*, That the president and directors shall have full power and authority to close their books of subscription whenever they shall think proper so to do.

AN ACT CONCERNING THE NAVIGATION OF CAPE FEAR RIVER.

(Passed at the session of 1815.)

Rights and privileges the same as those of the Roanoke Navigation Company.

1. *Be it enacted, &c.*, That all the rights, privileges and franchises granted to the Roanoke Navigation Company, by the fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh, twelfth, thirteenth, fourteenth, fifteenth, seventeenth, eighteenth and nineteenth sections of an act passed in the year one thousand eight

hundred and twelve, entitled "An act for improving the navigation of Roanoke river, from the town of Halifax to the place where the Virginia line intersects the same," be and they are hereby granted to the Deep and Haw River Navigation Company, and the said sections shall constitute and form part of the charter of the said company, as applied to the Cape Fear river, and the streams which run into the same, except as hereinafter excepted.

2. *Be it further enacted*, That the rights, privileges and franchises of the Deep and Haw River Navigation Company shall extend from the sources of the several rivers and creeks running into the Cape Fear river to the mouth of the said river ; and the president and directors of the said company shall have power, and they are hereby authorized to engage persons to improve the navigation of the Cape Fear and its waters as aforesaid, by canals, locks and sluices, or otherwise, as may be deemed most expedient.

To extend from the sources to the mouth of the river.

Power of the board to improve the navigation.

3. *Be it further enacted*, That the general meeting of the stockholders in said company shall hereafter be held in the town of Fayetteville ; and books shall be opened on the first Monday of April next, for receiving subscriptions for an increase of the capital stock of the said company for a sum not exceeding one hundred thousand dollars, of which sum the stock already subscribed shall constitute and form a part ; and this capital sum, not exceeding one hundred thousand dollars, shall be divided into shares of one hundred dollars each, and the present stockholders in the said company shall deliver to the president and directors the certificates of stock which they now hold, on or before the first Monday of June next, and receive other certificates in lieu thereof, and as to the present stockholders, new certificates may be issued for part of a share, but no subscription shall hereafter be received for part of a share.

General meetings to be held in Fayetteville.

Books to be opened for an increase of stock, &c.

4. *Be it further enacted*, That books for receiving the said subscriptions shall be opened under the directions of such persons as the president and directors of the company shall designate and appoint for that purpose ; and shall remain open until the first Monday of June next inclusive, and that on or before the first Monday of July then next following, the said books shall be returned to John Eccles and John Winslow in the town of Fayetteville, and the said John Eccles and John Winslow, with the president and directors aforesaid, or a majority of them, shall then and there proceed to ascertain the number of shares subscribed ; and if the amount of the shares subscribed when added to the amount of the shares now holden by the stockholders in the said company shall exceed the sum for which the said books shall be opened, they shall proceed to strike off from the said subscriptions, until the same with the amount of stock now holden shall be reduced to the capital sum aforesaid, and in striking off from the said subscriptions they shall proceed in the manner prescribed in the first section of the act aforesaid, passed in the year one thousand eight hundred and twelve, entitled " An act for improving the navigation of Roanoke river, from the town of Halifax to the place where the Virginia line intersects the same."

Regulations for opening the books and taking subscriptions, &c.

This act to have no effect unless fifty thousand dollars be subscribed, &c.

Books deemed evidence of sales of shares.

Tolls may be altered, &c.

Treasurer authorized to borrow of the banks.

Banks, &c. authorized to subscribe.

Capital may be enlarged.

Toll bridges may be built, &c.

5. *Be it further enacted*, That if the sum of fifty thousand dollars shall be subscribed in addition to the present stock of the said company by the first Monday of June next inclusive, this act shall have effect and not otherwise.

6. And whereas many shares have been sold under direction of the president and directors of the company for balances due thereon, and have been purchased in for the benefit of the company : *Be it further enacted*, That the books of the company shall be deemed good evidence of such sales and purchase, and also good evidence of such other sales and purchases as shall hereafter be made of shares for any balance or balances due thereon.

7. And whereas by improving the navigation of the Cape Fear river, and the various streams which run into the said river, the said company will become entitled to tolls at different places, but of unequal amount : *Be it enacted*, That the stockholders, or a majority of them in a general meeting, shall have power to regulate and determine the tolls which shall be paid ; and from time to time alter the said tolls : *Provided*, that the said tolls shall be so fixed, that the profits arising therefrom, shall not in any one year exceed fifteen per cent. upon the capital stock aforesaid, after payment of the sums allowed annually to the officers of the said company, expenses incurred for repairs, and other incidental charges.

8. And to enable the treasurer of this State to advance from time to time such sums of money as shall be required under this act, *Be it further enacted*, That the treasurer be and he is hereby authorized and directed to make a loan or loans on behalf of the State from the banks of Newbern and Cape Fear, for the sum of fifteen thousand dollars, upon the terms mentioned in the amended charter granted to the said banks at the last session of the General Assembly, and the said banks are hereby authorized to make such loan or loans.

9. *And be it further enacted*, That the several banks in this State, and all other bodies politic and corporate, shall be and they are hereby authorized to subscribe for shares in the said company, and to hold and enjoy the same in the same way as other subscribers.

10. *Be it further enacted*, That the capital sum aforesaid may be enlarged from time to time at the discretion of the stockholders, or a majority of them in a general meeting, should the said capital sum be insufficient to complete the navigation contemplated by the company under this act, and the president and directors of the said company, whenever a majority of the stockholders in general meeting shall deem the same to be advisable, shall be and they are hereby authorized, out of the capital stock aforesaid, or the tolls which shall be received, to construct one or more toll bridges across the Cape Fear river, or any of the streams which run into the said river, and for the condemnation of lands necessary for the erection of the abutments of said bridges, and the erection of toll houses, the same proceedings shall be had as are prescribed for the condemnation of lands for canals in the act aforesaid, passed in the year one thousand eight hundred and twelve.

11. *Be it further enacted*, That if more shares shall be subscribed upon the books which shall be opened on the first Monday of April next, than the amount of the capital sum aforesaid of one hundred thousand dollars, deductions shall be made in the first instance by striking off from the subscriptions on behalf of the State, and this shall be continued until the whole number of shares subscribed for on behalf of the State shall be stricken off, or until the sum subscribed be reduced to the capital sum aforesaid of one hundred thousand dollars : *Provided nevertheless*, that nothing contained in this act shall prevent the State from appointing a director of the said company, in the event that she shall hold any shares, at any time whenever the General Assembly shall think proper to make such appointment.

When there shall be an excess of shares, how to be stricken off.

Proviso for the State to appoint a director.

12. *Be it further enacted*, That the stockholders in the Deep and Haw River Navigation Company shall make known to the governor on or before the first day of March next, their acceptance or rejection of this amended charter : and if they fail to make known their acceptance or rejection by the said day, such failure shall be held, deemed and taken, to all intents and purposes, to be an acceptance thereof.

Former company to make known their acceptance, &c.

13. *And be it further enacted*, That all acts and clauses of acts which come within the purview and meaning of this act, or which give rights, privileges and franchises at variance with those given by this act, but which rights, privileges and franchises have not as yet been used and enjoyed, be and they are hereby declared to be repealed and made void.

Repealing clause.

14. *Be it further enacted*, That after the acceptance of this amended charter by the said company, the style and title of the said company shall be, "The Cape Fear Navigation Company," by which name they may sue and be sued, plead and be impleaded.

Style of the corporation.

AN ACT TO AMEND THE FIRST SECTION OF AN ACT, PASSED IN THE YEAR ONE THOUSAND EIGHT HUNDRED AND FIFTEEN, ENTITLED "AN ACT CONCERNING THE NAVIGATION OF THE CAPE FEAR RIVER."

(Passed at the session of 1821.)

1. Whereas the said act, in the first section thereof, provided that all the rights, privileges and franchises granted to the Roanoke Company by the fourth and as far as the eighteenth section of an act, passed in the year eighteen hundred and twelve, entitled "An act for the improving the navigation of Roanoke river, from the town of Halifax to the place where the Virginia line intersects the same," be, and are hereby granted to the Cape Fear Navigation Company, and the said sections shall constitute and form a part of the charter of said company, as applied to the Cape Fear river. And whereas the fourth clause of the above recited act requires that all sales of stock for balances due and owing the said company shall be made in the town of Halifax, in this State ; and also requires one month's notice to be given in some one newspaper

Preamble.

published in the town of Petersburg, in the state of Virginia, as well of such sales as directions at what times and in what proportions the subscribers shall pay the sums by them subscribed, which renders the mode of selling stock, belonging to the said Cape Fear Navigation Company, highly inconvenient and expensive; for remedy whereof,

Fourth section of the recited act repealed, as respects the Cape Fear Navigation Company.

2. *Be it enacted, &c.*, That so much of the fourth section of the above recited act as requires the sale of stock to be made in the town of Halifax, and notice to be advertised in the town of Petersburg, be, and the same is hereby repealed, so far as respects the Cape Fear Navigation Company, and shall no longer be deemed and held applicable to the same; and that all sales of stock subjected to the said Cape Fear Navigation Company, shall, from after the passage of this act, take place and be held in the town of Fayetteville; and that the president and directors of the Cape Fear Navigation Company shall give one month's notice as heretofore, except the publication in some one newspaper published in the town of Petersburg aforesaid.

President and directors of Cape Fear Navigation Company authorized to repeat their call on stockholders who have failed to pay their instalments.

3. *Be it enacted*, That the president and directors of the Cape Fear Navigation Company be, and are hereby authorized, by one month's public advertisement in the newspapers prescribed in the above recited act, as amended by the foregoing section hereof, to repeat their call upon such of the stockholders as have failed to pay each of the instalments upon the stock for which they may have subscribed, or of which they may have become proprietors, to have been hitherto required, although in such former requisition advertisement may not have been made in any Petersburg paper; and such notice shall be holden, and is hereby declared to be, as good and available against any defaulting stockholder, in any suit or motion brought or made against him, for any balance after the sale of his stock, according to the directions of the above recited act thus amended, as if advertisement had been regularly made in some paper in the town of Petersburg, pursuant to the provisions of said act.

AN ACT CONCERNING THE CAPE FEAR NAVIGATION COMPANY.

(Passed in the year 1823.)

Board for internal improvements authorized to subscribe in behalf of the State to the capital stock, twentyfive thousand dollars.

Conditions on which this subscription is to be made.

1. *Be it enacted, &c.*, That for the purpose of completing the navigation of the river Cape Fear, from the town of Wilmington upwards, the President and Directors of the Board of Internal Improvements are hereby authorized and directed to subscribe, for and on behalf of the State, to the capital stock of the Cape Fear Navigation Company, the sum of twentyfive thousand dollars, to be paid in instalments not exceeding ten thousand dollars in any one year, out of the fund heretofore set apart and pledged for internal improvement; which subscription shall be made on the following conditions: First, before the subscription shall be made, the stockholders of the company shall, at a general meeting to be called for that purpose, within three months from the passing of

this act, give their assent to a reduction of the capital stock by them generally and respectively held in said company, from its nominal value of one hundred dollars for each share, to a sum to be fixed by them not exceeding fifty dollars for each and every share of the said capital stock ; and the assent of a majority in interest of the said stockholders shall be binding and obligatory, to all intents and purposes, on all the stockholders of the said company in making the reduction aforesaid.

A majority of the stockholders in interest to bind the company.

Secondly. The stock which the State now owns in the said company, shall be reduced in the same proportion of the stock owned by individuals. The property and effects now belonging to the company shall constitute a part of its capital stock, and the subscription hereby authorized shall constitute a part of the capital stock of the said company ; and the State shall have and own in the said company, as many shares as the subscription hereby authorized shall amount to, according to the capital stock reduced as aforesaid.

The stock held by the State to be reduced in the same manner as that owned by individuals.

Thirdly. The President and Directors of the Cape Fear Navigation Company shall consent, in writing, that the Board of Internal Improvement shall have the sole and exclusive direction of the operation of the works, the making of contracts for the same, and all the improvements to be made on the river. The improvements in the navigation shall commence at Wilmington, and regularly proceed up the river, as far as the capital stock of the said company shall admit.

The company to consent that the Board of Internal Improvements shall have the direction of the works.

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

AN ACT AMENDING THE SEVERAL ACTS OF ASSEMBLY, INCORPORATING THE ROANOKE AND CAPE FEAR NAVIGATION COMPANIES; AND PRESCRIBING THE MODE OF ENFORCING THE COLLECTION OF TOLLS.

(Passed at the session of 1832.)

Whereas the power of seizing and selling any boat or vessel which may refuse to pay tolls when demanded, has been secured by acts of the General Assembly, to the Roanoke Navigation Company and to the Cape Fear Navigation Company ; and whereas doubts have arisen as to the constitutionality of said grant or power, because said acts have not expressly reserved to the owner or master of said boat or vessel, so seized as aforesaid, the right of replevying the same ; and whereas the right of replevying any boat or vessel so seized as aforesaid is a right at common law, and is not necessary to be secured by statute, yet to remove all doubts and to prescribe the mode of exercising said right to replevy,

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 hereafter on the seizure of any boat or vessel by any collector of tolls of either of the said Navigation Companies for the collection of tolls, the owner or master of said vessel so seized as aforesaid, or the agent of said owner, shall be permitted to replevy

Boats or vessels seized by any collector for toll, may be replevied, by

the owner giving bond for his appearance at court, there to abide the judgment of the same.

said boat or vessel so seized as aforesaid, by giving bond with two good securities, in a sum not less than twice the amount of the toll claimed as aforesaid, payable to either of said companies in whose behalf the same has been demanded as aforesaid, conditioned for the appearance of said master or owner at the next term of the court of pleas and quarter sessions or of the superior court of the county in which such seizure has been made as aforesaid, at the discretion of the collector making such seizure; and further conditioned that the person giving said bond shall stand to, abide by, and perform such judgment or decree as may be rendered in favor of the company in whose behalf such seizure has been made; and the court at which such master or owner is bound to appear as aforesaid, shall make up at the appearance term an issue, to try if any thing is due to said company for tolls as aforesaid by said master or owner and what amount is so due, and that the said issue shall stand for trial at the second term of the court to which said bond may be returned as aforesaid, and said court shall render judgment for the amount which may be due as aforesaid and for costs of suit; and on judgment being rendered in favor of the obligee in said bond, judgment shall also be rendered against the securities on said bond on motion, under the same rules, regulations and restrictions as on appeal bonds for appeals from the county to the superior courts; and that any collector of tolls of said companies in making said seizures as aforesaid shall be authorized and empowered to summon persons to assist them, and shall have in making such seizure all the power and authority of a sheriff in executing a writ of judicial attachment.

Collectors to have the authority of a sheriff in executing a writ.

Masters or owners of vessels to render a true list of all articles on board liable to toll, under the penalty of five hundred dollars.

2. *Be it further enacted*, That the master or owner of every boat or vessel plying in the river Cape Fear, between the ports of Wilmington and Fayetteville, shall at the commencement and completion of every trip or voyage render to the collector of tolls of the Cape Fear Navigation Company a true and correct list of all articles on board such boat or vessel liable to toll as aforesaid, both at the port of departure and of destination, if required by the said collector of tolls, which list shall be rendered on oath, which oath any justice of the peace of the counties of New Hanover, Bladen and Cumberland, is authorized to administer; and the said master or owner omitting to furnish such list for fortyeight hours after the same may be required as aforesaid, shall forfeit the sum of five hundred dollars, to be sued for by action of debt in the superior court of the county in which such requisition may have been made, in the name and to the use of any person suing for the same; and the said collector of tolls shall have power and authority to enter at all times on board any such boat or vessel either lading or laded as aforesaid, to ascertain what articles may be on board liable to toll as aforesaid.

Persons resisting the collector in the performance of his duty, subject to indictment.

3. *Be it further enacted*, That any person resisting the seizure of any boat or vessel by any collector of tolls as aforesaid, or shall resist the entry on board of any boat or vessel to ascertain what articles are on board liable to toll as aforesaid, shall for each and every act of resistance be subject to indictment in the superior

court of the county where such offence may be committed, and on conviction, such offender may be fined and imprisoned at the discretion of the court in which such conviction may take place ; and in case any collector shall in such seizure transcend the powers vested in him by law, he or they shall be subject to indictment in like manner as persons making resistance.

RAIL ROADS.

PETERSBURG RAIL ROAD.

AN ACT TO ENACT, WITH SUNDRY ALTERATIONS AND ADDITIONS, AN ACT, ENTITLED "AN ACT TO INCORPORATE THE PETERSBURG RAIL ROAD COMPANY," PASSED BY THE LEGISLATURE OF VIRGINIA ON THE TENTH DAY OF FEBRUARY, ONE THOUSAND EIGHT HUNDRED AND THIRTY.

(Passed at the session of 1830.)

WHEREAS it is represented that the General Assembly of the Commonwealth of Virginia hath passed an act, entitled "An act to incorporate the Petersburg Rail Road Company," in the words following, to wit :

"1. *Be it enacted by the General Assembly,* That it shall be lawful to open books in the town of Petersburg, and at such other place or places as a majority of the commissioners hereinafter named shall think fit, under the direction of Robert Bolling, John B. Wilcox, William C. Boswell, Joseph Bragg, Donald M'Kenzie, Littleberry E. Stainback, Samuel Mordecai, Hartwell P. Heath, William H. M'Farland and James S. Brander, or any five of them, for the purpose of receiving subscriptions to the amount of four hundred thousand dollars in shares of one hundred dollars each, to constitute a joint capital stock for the purpose of making a rail road from some point within the corporation of Petersburg to some convenient point on the North Carolina line, to be selected by the company hereby incorporated : the time and place of receiving subscriptions as aforesaid shall be advertised in one or more of the newspapers published in the town of Petersburg : and the books for receiving the same shall not be closed in less than ten days ; and if it shall appear that more than four 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, 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 four thousand ; but if the

whole number of shares 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 as a majority of the above named commissioners may judge to be most beneficial, until the whole number of shares shall be subscribed for.

2. When two 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 "Petersburg 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 make all such bylaws, rules and regulations, not inconsistent with the constitution and laws of this State, or of the United States, as shall be necessary for well ordering and conducting the affairs of the company.

3. Upon any subscription of stock as aforesaid, there shall be paid at the time of subscribing, to the said commissioners, their deputies or agents appointed to receive such subscriptions, the sum of five dollars on every share subscribed, and the residue thereof shall be paid in such instalments, and at such times, as it may be required by the president and directors of said company. The said commissioners and deputy commissioners shall forthwith after the election of president and directors of the company pay over to the said president and directors all moneys 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 superior or inferior court of any county or corporation wherein such commissioner or commissioners, their executors or administrators, may reside. The clerk shall endorse upon the execution which shall issue upon such judgment, that no security shall be taken, and the sheriff or other officer shall govern himself accordingly.

4. 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, 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 the 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 the shares subscribed, shall be present, either in person or by proxy, and if a sufficient number to constitute a meeting do not attend on that day, those who do attend shall have power to adjourn from time to time until a meeting shall be formed.

5. The subscribers, at their general meeting before directed, and the proprietors of the stock, at every annual meeting thereafter, shall elect a president and five directors, who shall continue in office, unless sooner removed, until the next annual meeting after their election, and until their successors shall be elected; but the said president, 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 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, or by the proprietors in general meeting.

6. 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 construct all works whatsoever which may be necessary and expedient, in order to the proper completion of the said rail road.

7. The said president and directors of the said company 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 ; 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 town of Petersburg ; to appoint a treasurer, clerk, and such other officers, and transact all the business of the company during the intervals between the general meetings of the same.

8. 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 Petersburg, 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 executor or administrator, or either of them, by motion on ten days' notice, before the court of that county of which he is an inhabitant, or by warrant before a justice of such county ; 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 proprietor.

9. The president and directors, their officers, servants and agents, 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, garden or curtilage of any person be invaded without his consent. If the president and directors cannot agree with the owner of the land 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 said rail road through it. 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, if the owner be *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 published in the town of Petersburg, 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 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 their 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 which will be sustained by the proprietor of the land, from opening the said rail road through the same; and that they will truly certify their proceedings thereupon to the court of the said county.

10. It shall be the duty of the said freeholders, in pursuance of the order 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 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 the 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 of the rail road through the same.

11. 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 an order of the county court of _____

for the purpose of ascertaining the damages which would be sustained by _____, the proprietor of certain lands in the said county, through which the Petersburg 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 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 the 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 the opening of the aforesaid rail road through the same ; that under the influence of these considerations, we have estimated, and do hereby assess the damages aforesaid at the sum of _____ . Given under our hands and seals, the _____ 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 the said county, do hereby certify, that the above named freeholders, before they executed their duties as above certified, were solemnly sworn (or affirmed) before me, that they would impartially and justly, to the best of their ability, ascertain the damages which would be sustained by the above named _____, from the opening of the above mentioned 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 _____ .’ The report of the freeholders so made, together with the certificate of the magistrate aforesaid, shall be forthwith returned by the said freeholders to the court of the said county ; and unless good cause be shown against the report, it shall be affirmed by the court, and entered of 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 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 the payment or tender of payment of said damages into court, when, for good causes shewn, the court shall so have 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 as aforesaid.

12. Whenever it shall become necessary to subject the lands of individuals to the use of the said company, in opening and con-

structing 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 superintendents, agents, contractors, laborers and servants, 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. And no order shall be made, nor shall any injunction be awarded by any judge or court, to stay or delay the progress of the said work : the true intent and meaning of this act being, that all injury that may be done to any land, without the consent of the proprietor or proprietors thereof, by opening and constructing the said 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. For such 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, nor 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 application of the parties entitled to the said damages, or his or their attorney, issue any execution for the amount of the said damages, against the said company, which may be legally issued against the corporation on a judgment for money ; and the clerk shall endorse on such execution that no security of any kind is to be taken.

13. If the president and directors of the said company shall not obtain the consent of the proprietor or proprietors of any land through which they 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, 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 superintendents, agents, contractors, laborers 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 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, by serving the same on the president, or any one or more of the directors of said company, 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, intelligent, disinterested, and impartial freeholders, to assess the damages that will result to the proprietor or proprietors of such land from opening and constructing the said rail road through the same, who shall be qualified in the same manner, and shall, upon the same principles, and in the same manner in all respects, pro-

ceed 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 the motion of the said company ; and the said court shall proceed upon the said report, and confirm or set the same aside 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 company ; and if the said company shall not pay to the proprietor or proprietors of such land, nor 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 court, on the like application, the clerk shall issue the like execution for the amount of damages, against the said company, with the like endorsement thereon.

14. The said president and directors, for the purpose of making 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 ornament, or take any timber, gravel, stone or earth, constituting any part of any fence or building. For all wood, stone, gravel, or earth, taken under authority of this act, and for all incidental injuries done to the enclosures, crops, woods or 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, intelligent and disinterested freeholders, who being appointed for that purpose by any justice of the peace, there to 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.

15. 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 president and directors of the 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 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 another.

16. 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 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 purposes of transportation.

17. And 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 vested in the respective shareholders 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.

18. So soon as a section of ten miles of the said road shall be completed, and as often thereafter as any other section of the like length shall be completed, the said president and directors shall transport all produce or other commodities that shall be deposited convenient to the 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 convenient 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*, 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 toll gate or gates, the toll due upon 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 a toll gate or gates ; and they shall be entitled to demand and receive a sum not exceeding twelve and a half cents per ton per mile for transporting produce or other commodities thereon ; and when the said rail road shall be completed, a sum not exceeding eight dollars per ton as compensation or toll for transporting produce or other commodities the whole length of the said rail road, until the net profits received shall amount to a sum equal to the capital stock expended, with six per centum per annum interest thereon from the time the money was advanced by the stockholders until received back in the net profits. But when the net 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 centum per annum interest thereon as aforesaid, then the tolls 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 the Board of Public Works, so as to make them sufficient, in their estimation, to yield a net profit equal to six per centum 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. The president and directors of the said company shall, at the end of each year, report to the Board of Public Works a statement, shewing the whole amount of capital stock expended in the construction of the said rail road, the amount of tolls received during each year, the expenses and charges incurred during each year, and the net annual profit or loss on the capital expended.

19. It shall be lawful for the said company to erect scales at their toll gate or gates, to weigh the burthen of any wagon, carriage, machine or other vehicle, and in transporting produce or other commodities along the said rail road.

20. An annual meeting of the subscribers to the stock of the said company, shall be held at such time in each year, as the stockholders, at their first general meeting, may appoint; to constitute which, or any general meeting called by the president and directors, according to the provisions of this act, the presence of proprietors 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.

21. In counting all votes of the said company, each member shall be allowed one vote for each share as far as ten shares, and one vote for every five shares above ten, by him held at the time, in the stock of the said company.

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

23. So soon as the said rail road shall be completed, the president and directors of the said company, or a majority of them, shall semiannually declare and make such dividend of the net 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.

24. 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 convenient to the 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.

25. And if any toll gatherer, at any toll gate 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, two 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 to pay the same.

26. 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 ten years thereafter, then the interest of the said company in the rail road, and the tolls aforesaid, shall be forfeited and cease.

27. 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 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 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 representatives, from their liability to the said company, for the payment of all such sums, if the assignee, or his representatives, shall be unable, or shall fail to pay the same.

28. The powers given by this act to the president and directors of the Board of Public Works, may be at any time transferred by the legislature to any other corporate or natural body ; and all the returns hereby directed to be made to the said Board of Public Works may be hereafter in like manner directed to be made to any other body.

29. If the said 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 one acre at any one place, as may be necessary for the accommodation of a toll house or a house to cover any stationary machine, or engine, or for stables which may be erected on the said rail road, it shall and may be lawful to and for the said president and directors to apply for and obtain from the court of the county in which the said land shall lie, a writ of *ad quod damnum*, upon which such proceedings and condemnation shall and may be had, as are prescribed for the condemnation of an acre of land for the abutment of a mill dam, in the act, entitled ' An act to reduce into one the several acts concerning mills, mill dams and other obstructions to water courses,' passed the second day of March, one thousand eight hundred and nineteen, so far as the provisions of that act may be applicable to this case. And upon payment of the value found by the jury, upon any such writ, to the owner or proprietor of the ground so condemned and located by the jury, or upon the payment thereof into court, when for good cause shewn, 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.

30. *Be it further enacted,* That it shall be lawful for the said company to purchase lands from the proprietors at the point of commencement of the said rail road, or in its vicinity, not exceeding ten acres, to be used by them for all necessary purposes of said road, or to be disposed of when by them it shall be deemed proper.

31. 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 works,

buildings, machines, wagons, vehicles or carriages, such person or persons, shall be punished according to the laws which may be in force in this Commonwealth at the time for the protection of the public works or property of the Commonwealth.

32. All acts and parts of acts, coming within the purview and meaning of this act, shall be, and the same are hereby repealed.

33. This act shall be in force from its passage."

And whereas further it is proposed by the Petersburg Rail Road Company to continue the rail road through that part of the territory of North Carolina, lying between the Virginia line and the Roanoke river; and whereas the assent of the legislature of this State is requested to the above recited act, to enable the said company to construct said rail road as aforesaid:

Be it therefore enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That the assent of this legislature in and to the act to incorporate the Petersburg Rail Road Company, as contained in the before recited act of the General Assembly of Virginia, is hereby as fully and completely given, as if the said act had been passed by this present General Assembly, with the exceptions, modifications and additions hereinafter provided.

2. *Be it further enacted,* That the assent of this legislature shall not be given to the ninth, tenth, eleventh, twelfth, thirteenth and fourteenth sections of the before recited act of the General Assembly of Virginia.

3. *And be it further enacted,* That if the president and directors cannot agree with the owners of land in this State, through which it may be necessary to make the said rail road, as to the terms upon which the said rail road shall be opened through the same, then it shall and may be lawful for the said president and directors to file their petition in the court of pleas and quarter sessions of the county wherein the land lies, under the same rules and regulations as are now prescribed by law in laying off public roads; and upon the filing of said petition, the same proceedings shall be had as in cases of public roads. And when the jury shall have laid off said road, and assessed the damages to be paid to the owners of the land through which the same shall be laid off, then it shall be lawful for the said president and directors, upon paying to the owner or owners of said land, his, her or their guardian, as the case may be, or into the office of the clerk of the court of pleas and quarter sessions of the county wherein the land lies, the sum or sums so assessed, to proceed to enter upon the land laid off, and construct their rail road thereon, to make all necessary excavations and embankments, bridges and other structures necessary for the construction and preservation of the level of the said rail road, and to hold the said land to their own use and benefit for the purpose of preserving and keeping up said rail road during the continuance of the corporate existence by this act given to them, and at any time to remove off from the same all fixtures which they may deem it necessary from time to time to put thereon, for the purpose of constructing or keeping up said rail

road ; and in all things to have the same power and authority over said land so laid off, during their existence as a corporation, under the laws of this State, as though they owned the fee simple therein : *Provided*, that nothing in this act contained shall be construed to give power to the jury to lay off said road through the yard, garden, curtilage or burial ground attached or appurtenant to the dwelling house on any plantation through which it may be deemed necessary to lay off said road, without the consent of the owner thereof.

4. *And be it further enacted*, That whenever any wood, stone, gravel or earth may be wanted for the construction or repairing of the said rail road, and the president and directors cannot agree with the owners of adjacent lands in this State as to the terms on which they can procure the same, then it shall and may be lawful for the said president and directors, by themselves, their officers, agents or servants, to enter upon any adjacent lands not in a state of cultivation, and take therefrom all wood, stone, gravel or earth, so needed as aforesaid : *Provided*, that they shall not, without the consent of the owner, cut down any fruit trees, or trees preserved in any lot or field for shade or ornament, or take any timber, gravel, stone or earth, constituting any part of a fence or building ; and when any stone, gravel, earth or wood shall be so taken as in this section is provided, it shall and may be lawful for the owner to file his, her or their petition in the court of pleas and quarter sessions of the county wherein the land lies, from which said earth, stone, gravel or wood shall have been taken, first giving ten days notice to the said president and directors, their officer or agent, of the filing of such petition, praying to have a jury summoned to go upon the land, and assess the damages he, she or they may have sustained thereby ; upon which it shall be the duty of the court to order a jury as in laying off public roads ; which jury shall go upon the land, and, after being duly sworn to do equal justice to all parties in assessing the said damages, shall consider what damage the owner of said land shall have sustained, and after assessing the same, shall return their proceedings to the said court ; and if the court shall approve thereof, the damages so assessed, together with all costs, shall be paid by the said president and directors. But if the said court shall not approve thereof, they shall order another jury to be summoned, and proceed in like manner to assess said damages, and return their proceedings to said court ; and upon approval thereof by said court, said damages and costs shall be paid by said president and directors ; and if said president and directors shall not pay the damages so assessed and all costs, execution may issue therefor against them as against other corporations : *Provided always*, that either party not satisfied with the sentence or decree of the county court, may appeal therefrom to the superior court of law for said county.

5. *Be it further enacted*, That the rail road contemplated to be made by the said company within the State of North Carolina, shall terminate on the north side of the Roanoke river, where it first strikes the bank of said river at a point not above the town of

Weldon, nor below the town of Halifax ; nor shall the said company, under any pretence whatever, extend the line of their road beyond said point.

6. *And be it further enacted*, That it shall be lawful for said company to purchase lands from the proprietors at the point of termination of said rail road, or in its vicinity, not exceeding ten acres, to be used by them for all necessary purposes of said road, or to be disposed of when by them it shall be deemed proper.

7. *And be it further enacted*, That if any person shall wilfully injure, impair or destroy, or cause to be injured, impaired or destroyed, any part of the said rail road, or any necessary works, buildings, carriages, vehicles or machines of said company in this State, such person or persons so offending shall forfeit and pay the sum of five hundred dollars, to the use of said company, to be recovered by said company by action of debt in the superior court of law or court of pleas and quarter sessions of the county wherein the offence shall have been committed ; and shall moreover be subject to indictment in either of said courts, and upon conviction shall be punished by fine or imprisonment at the discretion of the court.

8. *And 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 transportation of produce or other commodities allowed to the said company : *And provided also*, that the rights of property acquired by the said company under this act, shall not be taken away or impaired by any future act of the legislature.

9. *Be it further enacted*, That the president and directors of said company, after that part of the rail road within this State is completed, may erect a gate or gates at such place or places as they think proper, and may demand and receive the same rate of toll for transporting any produce or other commodity as they are entitled to demand by the above recited act, under the same rules and regulations ; and it shall be the duty of the said president and directors to render to this legislature annually a fair account of the expense incurred in constructing and keeping in repair that part of the rail road within this State, and the amount of tolls received on the same ; and whenever the net amount of tolls so received shall equal the sum expended in constructing that part of the road, together with six per centum per annum on that sum from the time it was so expended, then it shall be in the power of this legislature so to regulate the rate of toll, that the net amount annually collected shall not exceed six per centum per annum on the sum originally expended.

10. *And be it further enacted*, That this act shall be in force from and after the passage thereof ; and that the corporation shall exercise the corporate powers herein granted for sixty years, and no longer without a renewal of the charter.

AN ACT, SUPPLEMENTARY TO AN ACT PASSED IN THE YEAR ONE THOUSAND EIGHT HUNDRED AND THIRTY, ENTITLED "AN ACT TO ENACT WITH SUNDRY ALTERATIONS AND ADDITIONS, AN ACT ENTITLED AN ACT TO INCORPORATE THE PETERSBURG RAIL ROAD COMPANY PASSED BY THE LEGISLATURE OF VIRGINIA, ON THE TENTH DAY OF FEBRUARY, ONE THOUSAND EIGHT HUNDRED AND THIRTY."

(Passed at the session of 1832.)

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That the president and directors of the Petersburg Rail Road Company be, and they are hereby authorized, at those points on the line of their rail road between the Roanoke river in this State and the Virginia state line, where they may deem it important for the better accommodation of the trade and business of their said rail road, to purchase from the proprietors' land, not exceeding five acres at any one point, to be used by them for the establishment of depots and warehouses, and for other necessary purposes of said road, or to be disposed of when by them it shall be deemed proper.

2. *Be it further enacted by the authority aforesaid,* That the said president and directors be, and they are hereby authorized to charge for storage of produce, merchandise and other articles, at any warehouse which they may deem it advisable to construct, rates not exceeding the customary warehouse rates in the seaport towns of this State.

3. *Be it further enacted by the authority aforesaid,* 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.

AN ACT TO AMEND AN ACT ENTITLED AN ACT TO ENACT, WITH SUNDRY ALTERATIONS AND ADDITIONS, AN ACT ENTITLED, AN ACT TO INCORPORATE THE PETERSBURG RAIL ROAD COMPANY, PASSED BY THE LEGISLATURE OF VIRGINIA ON THE TENTH DAY OF FEBRUARY, ONE THOUSAND EIGHT HUNDRED AND THIRTY.

(Passed at the session of 1833.)

Be 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 Petersburg Rail Road Company be, and they are hereby authorized to construct a lateral rail road, from the point at which their present line of rail road may be crossed by the Portsmouth

and Roanoke rail road, or from such point in the neighborhood of the same, as they may deem most advisable, to the basin at Weldon; any thing in the act to which this is an amendment to the contrary notwithstanding.

2. *And be it further enacted*, That for the purpose of providing for the passage of said lateral rail road across the Roanoke river, should it be deemed advisable to construct said road to Weldon, the said Petersburg Rail Road Company be, and they are hereby authorized to subscribe such additional amount, not exceeding thirty thousand dollars, to the stock of the Weldon Toll Bridge Company, as may be requisite for increasing the width of the bridge, sufficiently to allow for the passage of said lateral rail road: *Provided however*, that if when the requisite amount of stock for the construction of said bridge, as authorized by acts of this General Assembly heretofore passed, shall have been subscribed for, and the requisite amount for widening said bridge as aforesaid shall have been ascertained by two competent persons, one to be appointed by each company herein mentioned, the said Petersburg Rail Road Company do not at once subscribe for said additional amount of stock, according to the rules and regulations specified in the act incorporating the Weldon Toll Bridge Company, the privilege herein given of subscribing for said additional amount of stock shall cease; and nothing herein contained shall be so construed as to prevent said bridge company from proceeding to construct said bridge in the same manner as if this act had never been passed.

3. *Be it further enacted*, That the same rights, privileges and immunities are hereby granted to the said Petersburg Rail Road Company, in the construction of said lateral rail road, as have been granted by the act to which this is an amendment; and the said company shall be subject to the same pains, penalties and obligations as are imposed by the said act, except that whenever it shall become necessary to subject the lands of individuals to the use of the said company, in opening and constructing the said lateral 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 superintendents, agents and contractors, laborers and servants, 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 a jury, 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 road, to the proprietor or proprietors of said land, shall be fully and completely compensated for in damages when ascertained; for such damages when ascertained by a confirmation of the report of the jury by the respective courts of pleas and quarter sessions, 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, execution may issue therefor as against other corporations : *Provided always*, that either party not satisfied with the sentence or decree of the county court, may appeal therefrom to the superior court of law for said county.

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

GREENSVILLE AND ROANOKE RAIL ROAD.

AN ACT TO INCORPORATE THE GREENSVILLE AND ROANOKE RAIL ROAD COMPANY.

(Passed at the session of 1833.)

BE 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 Warrenton, in the county of Warren, under the direction of James Somerville, Daniel Turner, Henry Fitts and William Eaton, senior, or any three of them ; at Milton, in the county of Caswell, under the direction of Samuel Watkins, John T. Garland, Stephen Dodson, Geo. Johnson and John Ragland ; at Leaksville, in the county of Rockingham, under the direction of Edward T. Broadnax, James Barrett ; at Wilkins' Ferry, in the county of Northampton, under the direction of Jesse A. Faulcon, Wood J. Hamlin, John T. Weaver, James Vincent and William W. Wilkins, or any three of them ; and at such places, and under the direction of such persons as any three of the commissioners herein before named to superintend the receiving of subscriptions at Wilkins' Ferry shall direct, for the purpose of receiving subscriptions to an amount not exceeding one hundred and fifty thousand dollars, in shares of one hundred dollars each, to constitute a joint capital stock, for the purpose of effecting a communication by rail road from some point on the Petersburg rail road to the south of Hicks' Ford, in Greensville county, Virginia, to some point on Roanoke river at or near Wilkins' Ferry, in the county of Northampton, North Carolina. That the said books shall be opened at each place at such time as the commissioners or deputy commissioners shall respectively appoint, between the first day of January and first day of July next, and shall be kept open at each place at least sixty days ; and if it shall appear that more than the whole amount authorized by this act shall be subscribed, then it shall be the duty of the commissioners, or a majority of them, appointed to receive subscriptions at Wilkins' Ferry, 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 one thousand five hundred shares ; but

if the whole number of shares shall not be subscribed for within one year from the time books shall be opened to receive the subscriptions, then the books may be closed or continued open as a majority of the commissioners named to receive subscriptions at Wilkins' Ferry may judge most beneficial, until the whole number of shares shall be subscribed for; and the time and place of receiving subscriptions as aforesaid, shall be advertised in one or more of the newspapers published in the city of Raleigh.

When five hundred 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 Greenville and Roanoke Rail Road Company;" and by that name may sue and be sued, plead and be impleaded; and shall possess and enjoy all the rights, privileges and immunities of a corporation or a body politic in law; and make all such bylaws, rules and regulations not inconsistent with the laws or constitution of this State or of the United States, as shall be necessary for the 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 person or persons appointed by this act, or by virtue of this act, to take subscriptions, the sum of one dollar on every share subscribed; and the residue thereof shall be paid in such instalments and at such times as may be required by the president and directors of said company. The said commissioners and deputy commissioners shall forthwith, after the election of a president and directors of the company, pay over to the said president and directors all moneys received by them; and on failure thereof, the said president and directors may recover the amount due from them or from any one or more of them, by motion, on ten days' previous notice, in the superior courts, or in the courts of pleas and quarter sessions, or before a justice of the peace of the county in which such commissioner, his executors or administrators may reside.

2. *Be it further enacted*, That when five hundred 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 appointed to receive subscriptions at Wilkins' ferry, who shall have power at the same time to call a general meeting of the subscribers, at such convenient time and place as they shall name in said notice. To constitute any such meeting, a number of persons holding a majority of all the shares subscribed shall be present, either in person or by proxy; and if a sufficient number to constitute a meeting do not attend on that day, those who do attend shall have power to adjourn from time to time until a meeting shall be formed.

3. *Be it further enacted*, That the subscribers, at their general meeting before directed, and the proprietors of the stock, at every annual meeting thereafter, shall elect a president and five directors, who shall continue in office, unless sooner removed, until the next annual meeting after their election, and until their successors shall

be elected ; but the said president 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 three or more of the directors, or in the absence of the president, any three 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 or by the proprietors in general meeting.

4. *Be it further enacted,* That 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, and to begin at or near Wilkins' Ferry, and be prosecuted in such direction to some point on the Virginia state line in a direction to the Petersburg rail road, in Greensville county, in the State of Virginia, as the stockholders shall direct; and may cause to be made and constructed all works whatsoever which may be necessary and expedient in order to the completion of the said rail road, in conjunction with any other company which may be formed by a portion of the citizens of Virginia, for the purpose of connecting the same with said Petersburg rail road ; and which company so formed shall constitute a joint stock company under the aforesaid name of the Greensville and Roanoke Rail Road Company.

5. *Be it further enacted,* That the president and directors shall have power to make contracts with any person or persons on behalf of the company, for making the said rail road, and performing all other works respecting the same which they shall judge necessary and proper ; to call, on any emergency, a general meeting of the proprietors of the stock, giving one month's notice thereof in some newspaper published at the seat of government ; to appoint a treasurer, clerk and such other officers, and transact all the business of the company during the intervals between the general meetings of the same.

6. *Be it further enacted,* That if any stockholder shall fail to pay the sum required of him by the president and directors, or a majority of them, within one month after the same shall have been advertised in some newspaper published at the seat of government, it shall and may be lawful for the president and directors, or a majority of them, to sell at public auction, and to convey to the purchaser, the share or shares of such stockholders so failing or refusing, giving one month's previous notice of the time and place of sale in manner aforesaid ; and after retaining the sum due and all charges of the sale out of the proceeds thereof, to pay the surplus over to the former owner or his legal representative ; and if the sale shall not produce the sum required to be advanced, with the incidental charges attending the same, then the president and directors may recover the balance of the original proprietor or his assignee, or executor or administrator, or either of them, by motion on ten days' notice before the court of pleas and quarter sessions

of the county of which he is an inhabitant, or by warrant before a justice of the peace of such county ; 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 proprietor.

7. *Be it further enacted*, That if the president and directors cannot agree with the owners of land through which it may be necessary to make the said rail road, as to the terms upon which the said rail road shall be opened through the same, then it shall be lawful for the said president and directors to file their petition in the court of pleas and quarter sessions of the county wherein the land lies, under the same rules and regulations as are now prescribed by law in laying off public roads ; and upon the filing of said petition, the same proceedings shall be had as in cases of public roads ; and where the jury shall have assessed the damages to be paid to the owners of land through which the same shall be laid off, then it shall be lawful for the said president and directors, upon paying to the owner or owners of said land, his, her or their guardian, as the case may be, or into the office of the clerk of the court of pleas and quarter sessions of the county wherein the land lies, the sum or sums so assessed, to enter upon the land laid off, and construct their rail road thereon, to make all necessary excavations and embankments, and all other structures necessary to the construction and preservation of said road, and to hold the said land to their own use and benefit during their corporate existence ; and in all things to have the same power and authority over said land so laid off, during their existence as a corporation, as though they owned the fee simple therein : *Provided*, that nothing in this act contained shall be so construed as to give power to said company to lay off said road through the yard, garden or burial ground attached or appurtenant to the dwelling house or any plantation through which it may be deemed necessary to lay off said road, without the consent of the owner thereof.

8. *Be it further enacted*, That whenever any wood, gravel, stone or earth may be wanted for the construction or repairing of said road, and the president and directors cannot agree with the owners of the lands adjacent, as to the terms on which they can procure the same, then it shall be lawful for the president and directors, by themselves, or officers, or agents, to enter upon any adjacent lands not in a state of cultivation, and take therefrom all wood, stone, gravel or earth so needed as aforesaid : *Provided*, that they shall not, without the consent of the owner, cut down any fruit trees, or trees preserved in any lot or field for shade or ornament, or take any timber, gravel or stone, constituting any part of a fence or building ; and where any gravel, stone, wood or earth shall be so taken as is provided for in this act, it shall and may be lawful for the owner to file his petition in the court of pleas and quarter sessions of the county wherein the land lies, from which said earth, stone, gravel or wood may have been taken, first giving ten days' notice to said president and directors, their officer or agent, of the filing of such petition, praying to have a jury sum-

moned to go upon the land and assess the damages he, she or they may have sustained thereby ; upon which it shall be the duty of the court to order a jury as in laying off public roads ; which jury shall go upon the land, and, after having been duly sworn to do equal justice to all parties in assessing the said damages, shall consider what damages the owners of said land shall have sustained ; and, after assessing the same, shall return their proceedings to the said court ; and if the court shall approve thereof, the damages so assessed, together with all costs, shall be paid by the president and directors ; but if the said court shall not approve thereof, they shall order another jury to be summoned, who shall proceed in like manner to assess said damages, and return their proceedings to said court ; and, upon approval thereof by said court, said damages and costs shall be paid by said president and directors ; and if said president and directors shall not pay the damages so assessed and all costs, execution may issue against them therefor as against other corporations : *Provided always*, that either party not satisfied with the sentence or decree of the county court may appeal therefrom to the superior court of law for said county.

9. *And be it further enacted*, That it shall be lawful for said company to purchase lands from the proprietors at any point on said road, not exceeding ten acres in any one tract, to be used by them for all necessary purposes of said road, or to be disposed of by them when it shall be deemed proper.

10. *And 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 the said president and directors of said company so to construct the said rail road across such established road or way, as not to impede the passage or transportation of persons or property along the same ; or 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 said road or roads from one part of his land to the other.

11. *Be it further enacted*, That the said president and directors, or a majority of them, shall have power to purchase with the funds of 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 and proper for the purposes of transportation.

12. *And be it further enacted*, That all machines, wagons, vehicles, carriages and all other personal property purchased by said company, or works constructed under the authority of this act, and all profits that shall accrue from the same, shall be vested in the respective shareholders of the company forever, in proportion to their respective shares ; and the said shares shall be deemed personal estate.

13. *And be it further enacted*, That so soon as ten miles of said 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, 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 convenient to said 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 the owner of produce or other commodities required to be transported by said company on said rail road shall pay or tender to said company, at their toll gate or gates, the toll due upon such produce or 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 a toll gate or gates ; and they shall be entitled to demand and receive a sum not exceeding the following rates, viz. on goods, produce, merchandise or property transported, not exceeding four cents a ton per mile for toll, and eight cents a ton per mile for transportation ; and for the transportation of passengers, not exceeding six cents per mile for each passenger, until the net profits received shall amount to a sum equal to the capital stock expended, with six per centum per annum interest thereon from the time the money was advanced by the stockholders until received back in the net profits ; but when the net 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 centum per annum interest thereon as aforesaid, then the tolls 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 governor or such other person or persons as may be appointed by the legislature for that purpose, so as to make them sufficient, in his or their estimation, to yield a net profit equal to ten per centum 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 the renewal of the same. The president and directors of the said company shall, at or shortly before each session of the legislature, report to the governor, or such other person or persons as the legislature may hereafter appoint for that purpose, shewing the whole amount of capital stock expended in the construction of said road, the amount of tolls received during each year, the expense and charges during each year, and the net annual profit or loss on the capital expended. And 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 said road, without the license or permission of the president and directors of said company. And nothing herein contained shall be construed to prevent the said company from making a contract for the transportation of the mail upon such terms as may be agreed on between said company and the agents of the United States.

14. *And be it further enacted,* That it shall be lawful for the company hereby created to receive donations and borrow money

for the objects of this act, and to pledge the property of the company for the payment of such loans, and to make and issue all proper evidences of such loans and assurances for repayment thereof.

15. *And be it further enacted,* That it shall and may be lawful for the company hereby created to construct all such bridges as it may be necessary for them to erect for the purposes of their rail road, so as to afford general accommodation to all travellers ; and to demand and receive from all persons passing over and using such bridges, a reasonable toll, which shall in no case exceed the highest rate of toll now allowed by law on any bridge of the State : *Provided, however,* that no toll shall be demanded for using said bridge on account of either property or persons passing along the rail road and paying tolls therefor. And if it shall be necessary for the company, in the selection of the route or construction of the road, by them to be laid out and constructed, to construct the same with, or to use any turnpike road or bridge, made or erected by any company incorporated or authorized by any law of this State, it shall be lawful for the president and directors of the company hereby created to contract with such corporations or persons for the right to use such road or bridge, or for the transfer of any of the rights and privileges of such corporations.

16. *And be it further enacted,* That it shall be lawful for said company to erect scales at their toll gate or gates to weigh the burthen of any wagon, carriage, machine, or other vehicle used in transporting produce or other commodities along said rail road.

17. *And be it further enacted,* That an annual meeting of the proprietors of the stock of said company shall be held at such time, and at such place, in each and every year, as the stockholders at their first general meeting, or at any subsequent general meeting, may appoint ; to constitute which, or any general meeting called by the president and directors according to the provisions of this act, the presence of proprietors holding a majority of all the shares 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.

18. *And be it further enacted,* That in counting all votes of the said company, each member shall be allowed one vote for each share, as far as ten shares, and one vote for every five shares above ten, by him held at the time in the stock of said company.

19. *And 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.

20. *And be it further enacted,* That so soon as the said rail road shall be completed so far as the company may deem it expedient to extend the same, the president and directors of the said company, or a majority of them, shall semiannually declare and make such dividend from the net profits from the tolls herein granted as they may deem advisable, to be divided among the proprie-

tors of the stock of said company in proportion to their respective shares.

21. *And be it further enacted,* That after 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 convenient 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 party injured by such failure or neglect.

22. *And be it further enacted,* That if any toll gatherer at any toll gate to be erected by the authority of this act shall ask, demand or receive any other or greater tolls than are hereby 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 recovered against him, the said company shall be liable to pay the same.

23. *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 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.

24. *Be it further enacted,* That 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 every share subscribed by him; which certificate shall be transferable by him, subject, however, to all payments due thereon, and such assignee having first caused the transfer or assignment to be entered into a book to be kept by the company for that purpose, shall thenceforth become a member of 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 representatives from their liability to the said company, for the payment of all such sums, if the assignee or his representatives shall be unable or shall fail to pay the same.

25. *Be it further enacted,* That if the said 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 one acre at any one place, as may be necessary for a toll house or a house to cover any stationary engine, or for any other necessary purpose, it shall and may be lawful for the president and directors to file a petition in the court of pleas and quarter sessions of the county in which the land lies against the proprietors of the land, setting forth the circumstances; and upon its being made to appear to the satisfaction of such court that the said president and directors have caused the proprietor of such land to be notified

ten days before court, the said court shall order the sheriff to summon a jury of good and lawful men, who, after having taken an oath (which oath the sheriff or his deputy is hereby authorized to administer) that they will assess the damages which such proprietor will sustain by reason of the condemnation of such land, shall assess the amount the petitioners ought to pay to such proprietor; and the said jury in assessing such damages shall take into the estimate the benefit resulting to the said proprietor from conducting such rail road through or near the lands of said owner or proprietor, but only in extinguishment of damages; and upon payment of the value found by the jury upon any such proceeding to the proprietor of the ground so condemned by the jury, or upon the payment thereof into court when for good cause shown the court shall have ordered it, the said president and directors and their successors shall be and stand seized of the ground so condemned in fee simple. If any person or persons shall wilfully by any means whatever injure, impair, or destroy any part of the rail road constructed by authority of this act, or any of the necessary works, buildings, machines, wagons, vehicles or carriages, such person or persons shall be punished according to the laws which may be in force in this State at the time for the protection of the public works or property of the State.

26. *And be it further enacted*, That the corporation shall exercise the corporate powers hereby granted for ninety years, and no longer, without a renewal of the charter.

27. *And be it further enacted*, That full right and privilege is reserved to the State, or to any company hereafter to be incorporated under the authority of this State, to connect, with the road hereby provided for, any other rail road leading from the main route to any part or parts of this State: *Provided*, that in forming such connexion no injury shall be done to the works of the company hereby incorporated.

28. *And be it further enacted*, That such compensation shall be made from time to time, to any of the officers, servants or agents of the company, as the proprietors in general meeting shall prescribe, or may authorize the president and directors to allow.

29. *And be it further enacted*, That it shall be lawful for the Roanoke Navigation Company to demand and receive, on all articles which may be transported down Roanoke river to Wilkins' ferry for the purpose of being transported on said rail road, the same amount of toll as may be required and received on similar articles delivered at the town of Weldon, provided the said amount of toll do not exceed the amount of toll which said company are authorized by law to receive at the town of Weldon, on articles brought down Roanoke river.

RALEIGH AND GASTON RAIL ROAD.

AN ACT TO INCORPORATE THE RALEIGH AND GASTON RAIL ROAD COMPANY.

(Passed at the session of 1835.)

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That it shall be lawful to open books in the city of Raleigh, under the direction of George W. Mordecai, William Boylan, 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 Joseph W. Hawkins, or any three of them; and at Oxford, under the direction of Rhodes N. Herndon, Thomas B. Littlejohn, Benjamin Kittrell, James 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 Greenville 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 bylaws, 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 moneys received by them; and on failure thereof, the said president and directors may recover the amount due from them, or from any one or more of them, by 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 direc-

tors, 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 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 city of Raleigh, and towns of Warrenton and Louisville, 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, warehouse, 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 this 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 the day, may adjourn from time to time until their business shall be finished. Of the five freeholders so appointed, any three or more of them may act, after having been duly sworn or solemnly affirmed, before some justice of the peace, that they will impartially and justly, to the best of their ability, ascertain the damages which will be sustained by the proprietor of the land, from the 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 the 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 condemnation 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 afore-

said, 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, sct: 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 Gaston and Raleigh Rail Road Company, and 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, or award a process of execution therefor, 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 their 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 said land. The freeholders so appointed, any three or more of whom may act, shall proceed in the performance of their duties, in all respects in the same manner as if they had been appointed on the application of the president and directors of the company. And the court shall, in like manner, confirm or disaffirm their report ; supersede them, or any of them, and appoint others in their stead ; or direct another view and report to be made, as often as may be necessary. And when any such report, ascertaining the damages, shall be confirmed, the court shall render judgment in favor of the proprietor, for the damages so assessed, and double costs ; and shall thereupon either compel the company to pay into court the damages and costs so adjudged, or award a process of execution therefor, as to them shall seem right.

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 wilful 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 established roads or ways, as not to impede the passage or transportation of persons or property along the same,—or when it shall be necessary to pass through the land of any individual, it shall also be their duty to provide for such individual a proper wagon way across said rail road, from one

part of his land to the other. *Provided however*, that in order to prevent the frequent crossing of established roads or ways, or in 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. The said president and directors, or a majority of them, shall have power to purchase, with the funds of the company, and place on the 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 of 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 twentyfive 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 recovered.

28. So soon as any portion of 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, merchandise, 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, merchandise and other articles, not exceeding an average of ten cents per ton per mile, and for the transportation of the mail, such sums as they may agree for; and the said president and directors shall be furthermore entitled to demand and receive for the weighing, storage, and delivering of produce and other commodities at their depots and warehouses, 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 authorized, shall be completed, the president and directors shall annually or semiannually declare and make such dividend as they may deem proper, of the net 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, warehouses, 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 powers herein granted shall be and enure for ninety years, and no longer, unless renewed by competent authority.

PORTSMOUTH AND ROANOKE RAIL ROAD.

AN ACT, TO ENACT WITH SUNDRY ALTERATIONS AND ADDITIONS, AN ACT, ENTITLED, "AN ACT INCORPORATING THE PORTSMOUTH AND ROANOKE RAIL ROAD COMPANY, AND FOR OTHER PURPOSES," PASSED BY THE LEGISLATURE OF VIRGINIA, ON THE EIGHTH DAY OF MARCH, ONE THOUSAND EIGHT HUNDRED AND THIRTY-TWO.

(Passed at the session of 1832.)

WHEREAS, it is represented, that the General Assembly of the Commonwealth of Virginia, hath passed an act, entitled, "An act incorporating the Portsmouth and Roanoke Rail Road Company, and for other purposes," in the words following, to wit :

"*Be it enacted by the General Assembly,* That it shall be lawful to open books at the town of Portsmouth, under the direction of Arthur Emmerson, Francis Grice, Mordecai Cooke, John W. Murdaugh, William Benthall, John P. Leigh, Holt Wilson, Robert B. Butt, John Hodges, John Thompson, John A. Chandler, Enoch Choate, Henry Singleton, Charles F. Niemeyer, John Talbot, John Cocke, Samuel Watts and John W. Collins, or any five of them ; in the town of Norfolk, under the direction of John Tunis, Joseph H. Robertson, John B. Roy, William C. Holt, Miles King, Robert E. Taylor, Joseph T. Allyn and Harrison Allmand, or any three of them. At Suffolk, under the direction of Mills Riddick, John C. Cohoon, Richard H. Baker, Richard Goodwin, Richard D. Webb, James McGuire, John T. Kilby, Joseph Prentis and David Jordan, or any three of them. At Smithfield, under the direction of George Wilson, Archibald Atkinson, James C. Jordan, James Chambers, Watson P. Jordan and Mallory Todd, or any three of them. At Jerusalem, under the direction of James Rochelle, William B. Goodwyn, Carr Bowers, George T. Kilby, Jeremiah Cobb, James Urquhart, Thomas Pritlow, Thomas Newsum, or any three of them. At Hick's Ford, under the direction of Nathaniel Land, T. Merritt, Benjamin Maclin, Thomas Spencer, Henry Wyche, John D. Maclin, Meriwether Brodnax and Augustin Claiborn, or any three of them. At Lawrenceville, under the direction of Stephen D. Watkins, Henry Lewis, James H. Gholson, Richard K. Meade, Jr., John E. Shell, Diggs Poyner and James B. Claiborn, or any three of them. At Boydton, under the direction of William Townes, Charles Baskerville, Clark Royster, William O. Goode, Richard Russel, Alexander G. Knox and Conrad Boyd, or any three of them. At Halifax Court House, under the direction of William B. Banks, Edward C. Carrington, James C. Bruce, Armstead Barksdal, William D. Sims, Thomas Easley, Henry Edwards and William Bailey, or any three of them. At Danville, under the direction of Benjamin W. S. Cabell, Thomas Rawlins, Vincent Witcher, Nathaniel Wilson, William Swanson, John Dickinson, Thomas Tunstall and David C. Clark, or any three of

them ; and at such other places, and under the direction of such other persons, as the commissioners herein named for the town of Portsmouth may appoint, for the purpose of receiving subscriptions to the amount of four hundred thousand dollars, to be divided into shares of fifty dollars each, to constitute a joint capital stock, for the purpose of making a rail road from the town of Portsmouth, in the county of Norfolk, to some point on the Roanoke river to be selected by the company herein incorporated ; the time and place of receiving subscriptions as aforesaid, shall be advertised in the newspapers published in the borough of Norfolk ; 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 appointed to receive subscriptions at Portsmouth, 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 have been reduced to eight thousand ; but if the whole number of shares 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, as a majority of the above named commissioners appointed to receive subscriptions at Portsmouth may judge to be most beneficial, 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 and assigns, shall be, and they are hereby declared to be incorporated into a company, by the name and style of "The Portsmouth and Roanoke 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 make all such bylaws, rules and regulations not inconsistent with the constitution and 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, their deputies or agents appointed to receive such subscriptions, the sum of one dollar on every share subscribed ; and the residue thereof shall be paid in such instalments, and at such times as it may be required by the president and directors of said company. The said commissioners and deputy commissioners shall forthwith, after the election of the president and directors of the company, pay over to the said president and directors all moneys received by them ; and on failure thereof, the said president and directors may recover the amount due from them, or from any one or more of them, by motion on ten days previous notice, in the superior or inferior court of the county or corporation wherein such commissioner or commissioners, their executors or administrators may reside. The clerk shall endorse on the execution which shall issue

on such judgment, that no security shall be taken, and the sheriff or other officer shall govern himself accordingly.

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, 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 the shares subscribed, shall be present either in person or by proxy; and if a sufficient number to constitute a meeting do not attend on that day, those who do attend may adjourn from time to time until a meeting shall be formed. The subscribers at their general meeting aforesaid, and the proprietors of the stock at every annual meeting thereafter, shall elect a president and five directors, who shall continue in office unless sooner removed, until the next annual meeting after their election, and until their successors shall be elected; but the said president or any of the directors, may at any time be removed, and the vacancy thereby occasioned be filled by the votes given at any general meeting. The president with any three or more of the directors, or in the absence of the president any four 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 a vacancy in the office of president or any director, happening from death, resignation, removal or disability, such vacancy may be supplied by appointment of the board or by the proprietors in general meeting.

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 maintenance 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 may make and construct all works whatsoever which may be necessary and expedient in order to the proper completion of the said rail road. They shall also 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; 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 paid; to call, in any emergency, a general meeting of the stockholders, giving one month's notice thereof in any one or more of the newspapers herein before mentioned; to appoint a clerk, treasurer and such other officers as they may deem proper; and to transact all the business of the company, during the intervals between the general meetings of the same. 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 as aforesaid, it shall and may be lawful for the said president and directors or a majority of them, to sell at public auction, and

convey to the purchaser, the share or shares of such stockholder so failing or refusing, giving one month's previous notice of the time and place of sale, in manner aforesaid ; and after retaining the sum due, and all charges of the sale, out of the proceeds thereof, to pay the surplus over to the former owner or his legal representative ; and if the said sale shall not produce the sum required to be advanced, with the incidental charges attending the sale, then the said president and directors may recover the balance of the original proprietor, or his assignee or the executor or administrator of either of them, by motion on ten days' notice before the court of that county of which he is an inhabitant, or by warrant if the amount does not exceed twenty dollars, before a justice of such county ; and any purchaser of such stock, under the sale by the president and directors, shall be subject to the same rules and regulations as the original proprietor.

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, garden, orchard, yard nor curtilage of any one be invaded without his consent. If the president and directors cannot agree with the owner of the land, on the terms upon which the said rail road shall be opened, 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 lands, which will result from opening the said rail road through it. 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 the guardian, if the owner be an infant, or to the committee, if the owner be *non compos mentis*, if such owner, guardian or committee can be found within the county ; or if he cannot be found, then such appointment shall not be made unless notice of such application shall have been published, at least one month next preceding, in some newspaper published nearest the said land, 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 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 their business shall be finished. Of the five freeholders so appointed, any three or more may act after being 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 the proprietor of the land will sustain from opening the said rail road through the same, and that they will truly report their proceedings thereupon to the court of the said county.

It shall be the duty of the 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 proper evidence as either party may offer, to ascertain, according to the best of their judgment, the damages which the proprietor of the land will sustain by opening the rail road through the same. In performing this duty, they shall consider the proprietor as being the owner of the whole fee simple interest ; they shall take into consideration the quality and quantity of the land which the rail road will occupy ; the additional fencing and 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 owners of the land will derive from the opening the rail road through the same. 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 the manner and form prescribed in the ninth section of the act, entitled, " An act prescribing certain general regulations for the incorporation of turnpike companies," passed February seventh, one thousand eight hundred and seventeen, after varying the same so as to make it applicable to the said rail road. At the foot of the report so made, the justice before whom the said freeholders were sworn or affirmed shall make a certificate in the manner and form prescribed in the same section of the aforesaid act, varying the same as aforesaid. The report of the freeholders so made, together with the certificate of the justice as aforesaid shall be forthwith returned by the said freeholders to the court of the said county, and unless good cause be shown against the report it shall be affirmed by the court and entered of 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 at 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 affirmance of any such report and on the payment, or tender, to the proprietor of the land of the damages so ascertained, or the payment of such damages into court, when for good cause shown, the court shall have so ordered it, the president and directors shall be at liberty to open the said rail road, upon the grounds viewed and assessed by the freeholders as aforesaid.

Whenever it shall become necessary to subject the lands of individuals to the use of 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 said company, and for their superintendents, agents, contractors, laborers and servants, 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 the said work.

And no order shall be made, nor shall any injunction be awarded, by any judge or court to stay or delay 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 nor into court by the company, during the term at which the report shall be confirmed, the clerk of the 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 or their attorney, shall issue an execution for the amount of such damages, against the said company, which may be legally issued against a corporation on a judgment for money.

If the said president and directors shall not obtain the consent of the proprietor or proprietors of any land through which they 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 superintendents, 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, 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 the 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 same 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 land, as if they had been appointed on the motion of 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 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 nor into 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 the like execution for the amount of the damages, against the said company.

The said president and directors, for the purpose of making the said road, or of repairing the same after it shall have been made, shall also 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,

ground 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 ornament, or take any timber, ground, stone or earth, constituting any part of any fence or building. For all wood, gravel, stone, or earth, taken under the authority of this act and for all incidental injuries done to enclosures, 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, intelligent 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.

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 any road or way already or hereafter to be 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 another. The 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 whatsoever, which they may deem necessary and proper for the purposes of transportation. All machines, wagons, vehicles 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 share 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 whatever. So soon as a section of ten miles of the said 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 the said rail road, and which they shall be required to transport to any point to which the said rail road may be completed, in the order in which the company shall be required to transport the same, after it shall have been deposited convenient 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*, the owners of the produce or other commodities required to be transported by the said company shall pay or tender to the said company at their toll gate or gates the toll due upon such produce or other commodities under this act.

And it shall be lawful for the said president and directors, and

they are hereby authorized, to erect on such section or sections a toll gate or gates and to demand and receive the following rates of toll, to wit : On all goods, produce, merchandise or commodity of any description whatsoever, a sum not exceeding eight cents per ton per mile ; and for the transportation of passengers a sum not exceeding six cents per mile for each passenger. It shall be lawful for the said company to erect scales at their toll gate or gates to weigh the burthen of any wagon, carriage, machine, or other vehicle, used in transporting produce or other commodities along the said rail road.

An annual meeting of the stockholders of the said company shall be held at such time in each year, as the stockholders, at their first general meeting, may appoint, to constitute which, or any general meeting called by the president and directors according to the provisions of this act, the presence of proprietors 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 on any day appointed for a general meeting called as aforesaid, the proprietors who do attend may adjourn from time to time, until a general meeting shall be had.

In counting all votes of the said company, each member shall be allowed one vote for each share as far as ten shares, and one vote for every five shares above ten by him held at the time in the stock of the said company. The president and directors shall render distinct accounts of their proceedings and disbursements of money, to every annual meeting of the stockholders.

So soon as the said rail road shall be completed, the president and directors of the said company, shall semiannually declare and make such dividend of the net 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.

If any toll gatherer, at any toll gate to be erected under the 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, two 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.

If the said president and directors, within three years from the passage of this act, shall not begin the said work, or shall not complete the same within ten years thereafter, then the interest of the said company in the said rail road and the tolls aforesaid, shall be forfeited and cease.

The said president and directors shall cause to be written or printed, certificates for shares of stock in the said company, and shall deliver one 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 ; 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 assignee or his representatives from their liability to the said company, for the payment of all such sums, if the assignee or his representatives shall be unable, or shall fail to pay the same.

If the said president cannot agree with the proprietors for the purchase and sale of any such quantity of ground not exceeding one acre, at one place, as may be necessary for the accommodation of a toll house or house to cover any station, machine or engine for stables, which may be erected on the said rail road, it shall and may be lawful for the said president and directors to apply for and obtain from the court of the county in which the said land may lie, a writ of *ad quod damnum*, upon which such proceedings and condemnation shall and may be had, as are prescribed for the condemnation of an acre of land for the abutment of a mill dam, in the act entitled An act to reduce into one the several acts concerning mills, mill dams and other obstructions to water courses, passed March second, one thousand eight hundred and nineteen, so far as the provision thereof may be applicable to this case.

And upon the payment of the value found by this jury, upon any such writ, to the owner or proprietor of the ground so condemned and located by the jury, or upon the payment thereof into court, when for good cause shewn, the court shall have so 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.

It shall be lawful for the said company to purchase lands from the proprietors, at each point of termination of the said rail road or the vicinity thereof, not exceeding ten 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.

If any person shall wilfully by any means whatever, injure, impair or destroy any part of any rail road constructed under this act, or any of the necessary works, buildings, machines, wagons, vehicles or carriages, such person or persons shall be punished according to the laws which may be in force in this Commonwealth at the time for the protection of public works or property of the Commonwealth.

It shall and may be lawful for the trustees of the town of Portsmouth to subscribe for such portion of the capital of the said Portsmouth and Roanoke Rail Road Company, not exceeding fifty thousand dollars as they shall deem expedient, upon the same terms and conditions as those upon which subscriptions are authorized to be made by individuals ; and the said trustees shall possess

and enjoy the same rights and privileges as shall be possessed and enjoyed by the individual stockholders in the said company: *Provided*, that before the said trustees shall be allowed to subscribe as aforesaid, the propriety of doing so shall be determined upon, in a town meeting of those persons qualified to vote for trustees of the said town, upon one week's previous notice of the time and place of such meeting, published in at least one of the newspapers of the borough of Norfolk or town of Portsmouth. When the said trustees shall have been authorized as aforesaid, and the subscription made, they shall be and are hereby authorized, for the purpose aforesaid, after the first day of April next to borrow upon such terms as they may choose to accept, any sum of money not exceeding the amount subscribed by the said trustees to the stock of the said company. And the said trustees shall have power either by deed or ordinance, to convey or pledge all the estate belonging to the trustees of the said town, and also to appropriate any portion of their revenue for the payment of any sum of money which may be borrowed under the authority of this act. It shall likewise be lawful for the said trustees and they are hereby authorized and empowered, to levy, assess and collect a sum not exceeding three thousand dollars in any one year, which sum, with the dividends on the said stock, shall be applied annually to the purpose of paying the interest and for the redemption of the principal, of any loan which the said trustees may negotiate under the authority of this act. The said trustees shall be, and they are hereby authorized and directed to apply the moneys raised or to be raised, under the authority of the act entitled "An act to revive and amend an act entitled an act to authorize a lottery and the sale of certain lots in the town of Portsmouth," passed February the fourteenth, eighteen hundred and twenty-nine, and the act amending the same, passed March the twentysixth, eighteen hundred and thirtyone, to the subscription of stock in the said company, and the payment thereof, and to apply annually one half of the dividends arising from the stock so subscribed and paid for, to the redemption of the principal of the loan herein before authorized, until the said loan of fifty thousand dollars shall be fully discharged, and the other half of said dividends, to the purposes of the above recited acts; and after the said loan shall have been fully redeemed, then the whole of the dividends arising from the stock taken and subscribed for by the said trustees, under this and the next preceding section, shall be applied by the said trustees to the general improvement of the said town of Portsmouth.

This act shall commence and be in force from the passing thereof."

Be it therefore enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That the assent of the legislature in and to the act to incorporate the Portsmouth and Roanoke Rail Road Company and for other purposes, as contained in the before recited act of Virginia, is hereby as fully and completely given, as if the said act had been passed by this present General Assembly, with the exceptions, modifications and additions hereinafter provided.

2. *Be it further enacted,* That the assent of this legislature shall not be given to those portions of the before recited act which prescribe the mode and manner to be observed by the president and directors of the company aforesaid, their officers, agents and servants, in entering upon the land of the proprietors, and in obtaining from them, land, wood or timber, stone, gravel and earth within the limits of this State, for the necessary and expressed purposes of the said rail road.

3. *And be it further enacted,* That if the president and directors cannot agree with the owners of land, in this State, through which it may be necessary to make the said rail road, as to the terms upon which the said rail road shall be opened through the same, then it shall and may be lawful for the said president and directors to file their petition in the court of pleas and quarter sessions of the county wherein the land lies, under the same rules and regulations as are now prescribed by law in laying off public roads ; and upon the filing of said petition, the same proceedings shall be had as in cases of public roads. And when the jury shall have laid off said road and assessed the damages to be paid to the owners of the land through which the same shall be laid off, then it shall be lawful for the said president and directors, upon paying to the owner or owners of said land, his, her or their guardian, as the case may be, or into the office of the clerk of the court of pleas and quarter sessions of the county wherein the land lies, the sum or sums so assessed, to enter upon the land, lay off and construct their rail road thereon, to make all necessary excavations and embankments, bridges and other structures necessary to the construction and preservation of the level of the said rail road. And to hold the said land to their own use and benefit for the purpose of preserving and keeping up said rail road during the continuance of the corporate existence by this act given to them, and at any time to remove off from the same all fixtures which they may deem it necessary from time to time to put thereon, for the purpose of constructing or keeping up said rail road ; and in all things to have the same power and authority over said land so laid off, during their existence as a corporation under the laws of this State, as though they owned the fee simple therein : *Provided,* that nothing in this act contained shall be construed to give power to the jury to lay off said road through the yard, garden, curtilage or burial ground, attached or appurtenant to the dwelling house or any plantation through which it may be deemed necessary to lay off said road, without the consent of the owner thereof.

4. *And be it further enacted,* That whenever any wood, stone, gravel or earth may be wanted for the construction or repairing of the said rail road, and if the president and directors cannot agree with the owners of lands adjacent, in this State, as to the terms on which they can procure the same, then it shall and may be lawful for the said president and directors, by themselves, their officers, agents or servants, to enter upon any adjacent lands not in a state of cultivation, and take therefrom all wood, stone, gravel or earth, so needed as aforesaid : *Provided,* that they shall not, without the

consent of the owner, cut down any fruit trees, or trees preserved in any lot or field for shade or ornament, or take any timber, gravel, stone or earth, constituting any part of a fence or building : and when any stone, gravel, earth or wood shall be so taken, as in this section is provided, it shall and may be lawful for the owner to file his, her or their petition in the court of pleas and quarter sessions of the county wherein said land lies, from which said earth, stone, gravel or wood shall have been taken, first giving ten days' notice to the said president and directors, their officer or agent, of the filing of such petition, praying to have a jury summoned to go upon the land and assess the damages he, she or they may have sustained thereby ; upon which, it shall be the duty of the court to order a jury, as in laying off public roads, which jury shall go upon the land, after being duly sworn to do equal justice to all parties in assessing the said damages, shall consider what damage the owner of said land shall have sustained, and after assessing the same, shall return their proceedings to the said court, and if the court shall approve thereof, the damages so assessed, together with all costs, shall be paid by the said president and directors. But if the said court shall not approve thereof, they shall order another jury to be summoned, and proceed in like manner to assess said damages and return their proceedings to said court, and upon approval thereof by said court, said damages and cost shall be paid by said president and directors ; and if said president and directors shall not pay the damages so assessed, and all costs, execution may issue therefor against them as against other corporations : *Provided always*, that either party not satisfied with the sentence or decree of the county court, may appeal therefrom to the superior court of said county.

5. *Be it further enacted*, That the rail road contemplated to be made by the said company within the State of North Carolina, shall terminate on the north side of the Roanoke river, opposite or below Weldon in this State.

6. *And be it further enacted*, That it shall be lawful for said company to purchase lands from the proprietors at the point of termination of said rail road, or in its vicinity, not exceeding ten acres, to be used by them for all necessary purposes of said road, or to be disposed of when by them it shall be deemed proper.

7. *And be it further enacted*, That if any person shall wilfully injure, impair or destroy, or cause to be injured, impaired or destroyed, any part of the said rail road, or any necessary works, carriages, vehicles, or machines of said company, in this State, such person or persons so offending shall forfeit and pay the sum of five hundred dollars to the use of said company, to be recovered by said company by action of debt in the superior court of law or court of pleas and quarter sessions of the county wherein the offence shall have been committed, and shall moreover be subject to indictment in either of said courts, and upon conviction shall be punished by fine or imprisonment at the discretion of the court.

8. *And be it further enacted*, That this act and every part and provision thereof shall be subject to be altered, amended or modi-

fied 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 transportation of produce or other commodities, allowed to the said company: *And provided also*, that the rights of property acquired by the said company under this act shall not be taken away or impaired by any future act of the legislature.

9. *Be it further enacted*, That the president and directors of said company, after that part of the rail road within this State is completed, may erect a gate or gates at such place or places as they may think proper, and demand and receive the same rate of toll for transporting any produce or other commodity, as they are entitled to demand by the above recited act, under the same rules and regulations; and it shall be the duty of the said president and directors to render to this legislature annually a fair account of the expense incurred in constructing and keeping in repair that part of the rail road within this State, and the amount of tolls received on the same; and whenever the net amount of tolls so received, shall equal the sum expended in constructing that part of the road, together with six per centum per annum on that sum, from the time it was so expended, then it shall be in the power of this legislature so to regulate the rate of toll that the net amount annually collected shall not exceed six per centum per annum on the sum originally expended.

And be it further enacted, That this act shall be in force from and after the passage thereof, and that the corporation shall exercise the corporate powers herein granted for sixty years and no longer, without a renewal of the charter.

AN ACT SUPPLEMENTARY TO AN ACT, PASSED IN THE YEAR ONE THOUSAND EIGHT HUNDRED AND THIRTYTWO, ENTITLED "AN ACT TO ENACT, WITH SUNDRY ALTERATIONS AND ADDITIONS, AN ACT ENTITLED 'AN ACT TO INCORPORATE THE PORTSMOUTH AND ROANOKE RAIL ROAD COMPANY,' PASSED BY THE LEGISLATURE OF VIRGINIA ON THE EIGHTH DAY OF MAY, ONE THOUSAND EIGHT HUNDRED AND THIRTYTWO."

(Passed at the session of 1833.)

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That the president and directors of the Portsmouth and Roanoke Rail Road Company be, and they are hereby authorized to subscribe a sum not exceeding thirty thousand dollars to the Weldon Toll Bridge Company, to construct a rail road on said bridge, with the consent of the said toll company, and to continue the same to the basin of the canal in the town of Weldon; and it shall be lawful for the said company to acquire and hold in fee simple such a quantity of land on or near the said basin, not exceeding ten acres, as may be necessary for the purposes of said company, and to dispose of such part thereof as the said company may deem proper.

2. *Be it further enacted by the authority aforesaid,* That the said company shall have full power and authority, in addition to produce and other commodities, to transport the mail and passengers on their rail road, at such rates for the transportation of the mail as they may agree for, and at a rate not exceeding six cents per mile for each passenger : *Provided,* that it shall not be incumbent on the company to put down passengers at any other than their regular stopping places or stands, in the line of their rail road.

3. *Be it further enacted by the authority aforesaid,* That the president and directors aforesaid be, and they are hereby authorized, at those points on the line of their rail road between the Roanoke river, in this State, and the Virginia state line, where they may deem it important for the better accommodation of the trade and business of their said rail road, to purchase from the proprietor land, not exceeding ten acres at any one point, to be used by them for the establishment of depots and warehouses and for other necessary purposes of said road, or to be disposed of when by them it shall be deemed proper.

4. *Be it further enacted by the authority aforesaid,* That it shall be lawful for the said president and directors to charge for the storage of produce, merchandise and other articles, at such warehouses as they may find it necessary to construct, rates not exceeding the customary warehouse rates in the seaport towns of this State.

5. *Be it further enacted by the authority aforesaid,* That if any person or persons shall wilfully, by any means whatsoever, injure, impair, or destroy any part of this rail road, or any of the necessary works, buildings, machines, wagons, vehicles or carriages belonging to the said company, he or they shall forfeit and pay 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 the said company.

6. *Be it further enacted by the authority aforesaid,* That if any person or persons shall wilfully and with evil intent place or cause to be placed in 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 rail 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.

7. *Be it further enacted by the authority aforesaid,* That nothing herein contained shall prevent the company from pursuing any other remedies, and enforcing any other penalties, provided by law and their act of incorporation, for trespasses on their property.

8. *Be it further enacted by the authority aforesaid,* That this act shall be in force from and after the passage thereof.

HALIFAX AND WELDON RAIL ROAD.

AN ACT TO INCORPORATE THE HALIFAX AND WELDON RAIL ROAD COMPANY.

(Passed in the year 1833.)

Be 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 Halifax, under the direction of James Simmons, Michael Ferrel, Thomas Ousby, Mark H. Pettway and N. M. Long, or any three of them ; at Enfield, under the direction of Thomas Nicholson, Carey Whitaker, Spier Whitaker, John W. Simmons and John Croill, or any three of them ; at Weldon, under the direction of Andrew Joiner, T. T. Wiatt, William H. Day, George Baskerville and John Purnell, sen., or any three of them ; at Nashville, under the direction of Henry Blount, B. F. Moore, William Burt, Joshua Watson and James S. Battle, or any three of them ; and at such other places, and under the direction of such other persons as the commissioners herein named for the town of Halifax shall designate and appoint, for the purpose of receiving subscriptions to the amount of fifty thousand dollars, to be divided into shares of one hundred dollars each, to constitute a joint capital stock for the purpose of making a rail road in the county of Halifax, from the town of Halifax to the town of Weldon. The times and places for receiving subscriptions, as above, shall be advertised in the manner deemed most proper by the commissioners at the town of Halifax, and the books for receiving the same shall be kept open twenty days ; and should it, at the expiration of the twenty days, appear that more than fifty thousand dollars of stock shall have been subscribed for upon the books, it shall be the duty of the said commissioners at the town of Halifax, or any three of them, 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 five hundred : *Provided*, that no reduction shall be made upon subscriptions not exceeding two shares ; but should the whole amount of five hundred shares not be subscribed at the end of twenty days, then the books shall be kept open until the whole amount of five hundred shares shall have been subscribed : *Provided however*, that as soon as two hundred and fifty shares shall be subscribed, then the subscribers, their heirs, executors, administrators or assigns, shall be, and they are hereby declared to be incorporated into a company, by the name and style of the "Halifax and Weldon 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 make all such bylaws, 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.

2. *Be it further enacted*, That upon every share subscribed, there shall be paid at the time of subscribing, by the person subscribing, the sum of two dollars, to the commissioners authorized 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.

3. *Be it further enacted*, That when two hundred and fifty shares or more of the stock shall be subscribed, public notice may be given by any three or more of the commissioners in the town of Halifax, who shall call a general meeting of the subscribers, giving thirty days' notice in the newspaper published in the town of Halifax, of the time and place of said meeting; to constitute any such meeting, a number of persons entitled to a majority of the votes upon all the shares subscribed, shall be present, either in person or 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; the 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. An annual meeting of the stockholders of the said company shall be held at such time in each year as the stockholders at their first general meeting may appoint, at which the election of president and directors shall take place in like manner as above; and when 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 body president *pro tempore*, and transact business: *Provided always*, that the majority of votes representing shares in said company, given at any time against any president or director of said corporation, shall vacate his office or appointment; and shall also have power to fill such vacancy, until the next annual meeting of the stockholders.

4. *Be it further enacted*, That 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 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 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 month's notice of such call in the newspaper circulating among the subscribers. 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 take such bonds 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 the newspaper published in the town of Halifax, it shall and may be lawful for the president and directors, or a majority of them, to sell at public auction and to convey to the purchaser, the share or shares of such stockholders so failing or refusing, giving one month'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, or a majority of them, may recover the balance of the original proprietor, or his assignee, or the executor or administrator, or either of them, by motion, on ten days' notice, before the court of that county of which he is an inhabitant, or by warrant before a justice of such county ; 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 original subscribers to the capital stock of the said company.

5. *Be it further enacted*, That the president and directors, their officers, servants, agents and contractors, 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 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 said 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 within 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 published at Halifax. 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.

6. *Be it further enacted*, That it shall be the duty of the 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 proper evidence 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 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 rail road will occupy, the additional fencing or gates that will be required thereby, and all other inconveniences which will result to the 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 opening the rail road through the same.

7. *Be it further enacted*, That when the said freeholders shall have agreed upon the amount of the 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 of _____ for the purpose of ascertaining the damages which would be sustained by _____ the proprietor of certain lands in said county through which the Halifax and Weldon 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 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 probably 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 the opening of the aforesaid rail road through the same ; that under the influence of these considerations, we have estimated, and do hereby assess the damages aforesaid at the sum of dollars. Given under our hands and seals, this the 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 mentioned rail road through his land, and they would certify truly their proceedings thereupon to the court of the 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 said 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 on record ; but if the said report should be disaffirmed, or the said freeholders, being unable to agree, should report their disagreement, the court may, at its discretion, as often as may be necessary, supersede them or any of them, appoint others in their place, 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 of payment of said damages into court, when for good causes 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 viewed and assessed by the freeholders aforesaid.

8. *Be it further enacted*, That whenever it shall become necessary to subject the lands of individuals to the use of 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 said company, and for their superintendents, agents, contractors, laborers and servants, 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 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 road through the same, over and above the advantages of 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 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 such damages against the said company, which may be legally issued against a corporation on a judgment for money.

9. *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 superintendents, 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 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 the 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 same 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 land, 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 the damages against the said company.

10. *Be it further enacted,* That the said president and directors, for the purposes of making the said road, or of repairing the same after it shall have been made, shall also 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, and for all incidental injuries done to enclosures, 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 shall 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 said proprietors to show to the justice 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 the principal superintendent of the said rail road ; and no award which may be given under any appointment without such notice shall be obligatory or binding on said company.

11. *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 the said president and directors so to construct the said rail road across any other road or way already, or hereafter to be, 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.

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

13. *Be it further enacted,* That so soon as the said road 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, merchandise or commodity, of any description whatsoever, a sum not exceeding twelve and a half cents per ton per mile ; for the transportation of passengers, a sum not exceeding six cents per 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 to demand and receive for the weighing, storage and delivering of produce and other commodities, rates not exceeding the ordinary warehouse rates charged in the seaport towns of this State, until the net 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 the net profits ; but when the net 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 net profit of fifteen per cent. per annum on the capital stock invested in the said road and the constructions connected with it, and the costs of the locomotive engines, cars, carriages and other vehicles, and the renewal and 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 produce or other commodities under this act.

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

15. *Be it further enacted*, That in counting all the votes of the said company, each member shall be allowed one vote for each share as far as ten shares, and one vote 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 a 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.

16. *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 subscribers.

17. *Be it further enacted*, That so soon as the said rail road shall be completed, the president and directors of the said company shall semiannually declare and make such dividends of the net 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.

18. *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 or receive any other or greater tolls than are 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.

19. *Be it further enacted*, That if the said president and directors shall not begin the said work within one year after the passage of this act, or shall not complete the same within three years there-

after, then the interest of the said company in the said rail road and the tolls aforesaid shall be forfeited and cease.

20. *Be it further enacted*, That the said president and directors shall cause to be written or printed, certificates for shares of stock in the said company ; and shall deliver one certificate, signed by the president, 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 ; 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 liability to the said company for the payment of all such sums, if the assignee or his representatives shall be unable, or shall fail to pay the same.

21. *Be it further enacted*, That it shall be lawful for the said company to purchase lands from the proprietors at each point of termination, and at any immediate points of the said rail road or vicinity thereof, not exceeding ten 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.

22. *Be it further enacted*, That if any person or persons shall wilfully, 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 the said company.

23. *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.

24. *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 or other commodities, allowed to the said company, and the rate allowed for the transportation of passengers : *And provided also*, that the right of property acquired by the said company, under this act, shall not be taken away or impaired by any future legislature.

25. *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.

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

AN ACT TO INCREASE THE CAPITAL STOCK OF THE HALIFAX AND WELDON RAIL ROAD COMPANY.

(Passed at the session of 1836.)

Be 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 Halifax and Weldon Rail Road Company be, and they are hereby authorized to increase their capital stock ten thousand dollars in addition to the capital now authorized by law, and for this purpose to open books of subscription, at the town of Halifax, under the direction of James Holliday, Thomas Ousby, James Simmons, Michael Ferrell and Redding J. Hawkins, or any three of them, and at such other places, and under the direction of such other persons, as the said commissioners at Halifax may appoint, and to keep the same open until the stock aforesaid shall have been subscribed.

2. *Be it further enacted*, That whenever the said additional stock shall have been subscribed, or any part thereof, the owners or subscribers for such additional stock shall be vested with all the rights, benefits and privileges, and shall be subject to all the duties, obligations, liabilities and restrictions, and in all respects stand upon an equal footing with the original stockholders in the said Halifax and Weldon Rail Road Company.

AN ACT EMPOWERING THE HALIFAX AND WELDON RAIL ROAD COMPANY TO SUBSCRIBE THEIR STOCK TO THE WILMINGTON AND RALEIGH RAIL ROAD COMPANY.

(Passed at the session of 1836.)

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That it shall be lawful for the stockholders in the rail road company, created by an act of assembly, passed in the year one thousand eight hundred and thirtythree, chapter seventyfive, entitled "An act to incorporate the Halifax and Weldon Rail Road Company," to subscribe their stock upon the books of the rail road company, incorporated by an act of assembly, passed in the year one thousand eight hundred and thirtythree, chapter seventy-eight, entitled "An act to incorporate the Wilmington and Raleigh Rail Road Company," upon such terms as may be stipulated between the stockholders in the Halifax and Weldon Rail Road

Company, and the President and Directors of the Wilmington and Raleigh Rail Road Company.

2. Upon the subscription of the stock held by the stockholders in the Halifax and Weldon Rail Road Company, in the books of the Wilmington and Raleigh Rail Road Company, all the property, real and personal, owned and held by the Halifax and Weldon Rail Road Company, shall vest in and be owned and possessed by the Wilmington and Raleigh Rail Road Company aforesaid, and be owned, and held and possessed by the said company in the same manner that all the other property, real and personal, which has been acquired by the said company is owned, held and possessed; and the road which may have been built, or partly built, by the Halifax and Weldon Rail Road Company, shall thenceforward be deemed, to all intents, as well criminal as civil, a part of the Wilmington and Raleigh Road.

3. So soon as the subscription hereby authorized shall have been made, all the rights and privileges acquired under the before recited act of assembly, passed in the year one thousand eight hundred and thirtythree, entitled "An act to incorporate the Halifax and Weldon Rail Road Company," shall cease and the corporate existence of the said company be determined.

4. The assent of the said Wilmington and Raleigh Rail Road Company, and Halifax and Weldon Rail Road Company, to the subscription of stock as aforesaid, evidenced by a paper writing, under the hands and seals of the president and directors of the said corporations, shall be made matter of record, by registering the same in the register's office of Halifax county, and recording it in the office of the secretary of state.

WILMINGTON AND RALEIGH RAIL ROAD.

AN ACT TO INCORPORATE THE WILMINGTON AND RALEIGH RAIL ROAD COMPANY.

(Passed at the session of 1833.)

BE 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 Wilmington, under the direction of Edward B. Dudley, P. K. Dickinson, Robert H. Cowan, Aaron Lazarus, James Owen, William B. Meares, William P. Hort, Alexander McRae and James S. Green, or any five of them; and in the city of Raleigh, under the direction of Gavin Hogg, William H. Haywood, Charles L. Hinton, Johnson Busbee, Charles Manley, Alfred Jones, Willis Whitaker, Ruffin Tucker, Weston R. Gales and E. P. Guion, or any five of them; and at any other places, under the direction of commissioners which may be designated by any three of the aforesaid commissioners at Wilmington, or any three of the commis-

sioners at Raleigh, for the purpose of receiving subscriptions to an amount not exceeding eight hundred thousand dollars, in shares of one hundred dollars each, to constitute a joint capital stock, for the purpose of effecting a communication by a rail road, from some point within the town of Wilmington, or in the immediate neighborhood of the said town, to the city of Raleigh, or in the immediate neighborhood of the said city, the route of which road shall be determined on by the company hereby incorporated. The time and places of receiving subscriptions as aforesaid shall be made public by an advertisement in some newspaper published at Wilmington, and a newspaper published at Raleigh; but the said commissioners, and deputy commissioners, shall keep open the said books at least sixty days at each place of opening them; and at the time to be fixed by the commissioners at Wilmington for that purpose, it shall be the duty of the said commissioners and their deputies to make return to the said commissioners at Wilmington of the subscriptions by them taken respectively; and if it shall appear that three hundred thousand dollars, or any larger sum, has been subscribed, the commissioners at Wilmington shall make it known by advertisement in the newspapers published there, and in the city of Raleigh, and call a meeting of the subscribers at such time and place as they shall think fit, provided they shall give at least twenty days' notice of said meeting; but if the sum of three hundred thousand dollars shall not be subscribed for within the time first appointed, the commissioners at Wilmington and Raleigh, and at other places to be designated as aforesaid, shall again open the said books to receive further subscriptions, and keep them open until such time as they may deem proper and fit; and the like proceedings shall be adopted by the said commissioners and their deputies upon the reopening of said books, as are required to be pursued upon the original or first opening of them; and if the whole amount of the capital or joint stock shall not be subscribed for upon either the first or second opening of the said books, then the books may be closed or continued open, as a majority of the commissioners at Wilmington may judge most beneficial, and for such a period of time as they may prescribe: *Provided however*, that if upon the first or upon the second opening of the said books, the sum of three hundred thousand dollars shall be subscribed for, the power to continue open the said books shall be transferred and vested in the subscribers to the said company, or the president and directors whom they shall appoint, and not in the commissioners.

2. *Be it further enacted*, That when three hundred shares shall be subscribed for in the manner aforesaid, the subscribers, their executors, administrators or assigns, shall be, and they are hereby declared to be incorporated into a body politic or company, by the name and style of "The Wilmington and Raleigh 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 a body politic in law; and may make all such rules, bylaws and regulations, not inconsistent with

the constitution of the United States and this State, as shall be deemed necessary for the well ordering and conducting the affairs of the company.

3. *Be it further enacted,* That upon any subscription for stock in said company, there shall be paid two dollars on each share at the time of subscribing, which payment shall be made to the commissioners receiving such subscriptions ; and the residue thereof shall be paid in such instalments, and at such time, as may be required by the president and directors of said company. The commissioners and deputy commissioners appointed to receive subscriptions, shall forthwith, after the election of a president and directors of the company, pay over to the said president and directors all moneys received by them ; and on failure thereof, the said president and directors may recover the amount due from them, or from any one or more of them, by motion or by petition, in any county or superior court of the State ; and if the sums are demanded by petition, the defendants shall answer on oath, and the suit, whether by motion or petition, shall be heard and determined at the first court : *Provided however,* that in either case, the defendants shall have been notified at least ten days before the court, in which the motion is made or the petition filed.

4. *Be it further enacted,* That when three hundred thousand dollars or more of the said stock shall be subscribed for, public notice of that event shall be given by any three or more of the commissioners at Wilmington, 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 such meeting, or any general meeting of the stockholders, a number of persons holding a majority of all the shares shall be present, either in person or by proxy ; and if a sufficient number do not appear on the day appointed, those who do attend shall have power to adjourn from time to time until a meeting shall be formed.

5. *Be it further enacted,* That the proprietors of the stock, at the general meeting above directed, and every annual meeting thereafter, shall elect a president and ten directors, who shall continue in office, unless sooner removed, until the next annual meeting after their election, and until their successors shall be elected ; but the said president, 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 called or general meeting. The president, with any five or more of the directors, shall constitute a board for the transaction of business ; and if the office of president become vacant, the directors shall elect one of their own body *pro tem.* ; and if there be a vacancy in the directory, the other directors may fill the vacancy by electing a stockholder ; and if the president shall at any time be absent from the board, the directors may, if five be present, appoint one of their own body to act as president during that meeting.

6. *Be it further enacted,* That there shall be annual meetings of the proprietors of stock, at such times and places as the pre-

ceding general meeting have appointed. Proprietors may attend by proxy, under such rules as the bylaws prescribe: *Provided*, that in no case shall the president, or any director, vote under the authority of another stockholder; nor shall any officer or agent of the company be the proxy of a stockholder; and if there be any proxy which is jointly made to the president and another or others, or to any director and another or others, or to any other officer or agent of the company jointly with another or others, the proxy shall be void.

7. *Be it further enacted*, That special meetings of the company may be called by the president and directors, or a majority of their board assembled; or it shall be called by the president whenever ten members of the company or more, owning together two hundred shares, shall require it: *Provided*, that public notice shall be first given of the time and place of the said meeting, and of the purpose for which it is called, unless the interest of the company requires that the cause of convening the meeting should not be published: *And provided*, that, either in person or by proxy, there shall be present at the meeting a number of persons owning together a majority of the stock.

8. *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 of a rail road to be located as aforesaid, and to begin at such point and prosecuted in such directions as the stockholders shall direct: and they may cause to be made and constructed for the said company all works whatsoever, which may be deemed necessary or expedient to the successful and proper completion and enjoyment of said rail road. They may appoint a secretary and treasurer, and other officers, and take from them bonds and security for the faithful performance of their duties, which bonds shall be made payable to the company; but the salaries or other compensation of the said officers shall be regulated by the stockholders in general meeting. And during the intervals between the general meetings of the stockholders, the president and directors may transact all the business of the company, with the limitations herein before and hereafter stated.

9. *Be it further enacted*, That the president and directors shall have power to make contracts with any person or persons, on behalf of the company, for making said rail road, and performing all other works respecting the same: *Provided*, they shall not make any contract with any member of the board of directors, nor with the president, without the express assent of the stockholders being given to such a contract at a general meeting.

10. *Be it further enacted*, That at any general meeting of the stockholders, no person who has an individual interest in a question to be decided by them, shall be allowed to vote either for himself, or as the proxy of another stockholder; and no person shall be elected a president or a director of the company, who does not own at least twenty shares of stock in the company; and if any person, after his election to the office of president or direc-

tor, ceases to be the owner of so many shares, he shall thereupon cease to be a president or a director of the company, and the vacancy shall be filled as heretofore provided for ; nevertheless the stockholders may elect a president and directors who are not owners of twenty shares each, if it is done by the unanimous consent of those present at a general meeting.

11. *Be it further enacted*, That if any stockholder shall fail to pay the sum required of him, on his subscription, by the president and directors, or a majority of them, within one month after the same shall have been advertised in some newspaper published at the seat of government, it shall and may be lawful for the said president and directors, without further notice, to move for judgment in the county or superior court of Wake or of New Hanover against the delinquent stockholder or his assignee, or both, for the amount of the instalment required to be paid, at any court held within one year after the notice, and the court shall give judgment accordingly ; or they may sue for the same, in an action of assumpsit, or by warrant, according to the jurisdiction of the respective tribunals of the State ; and in case of a warrant, there shall be no stay of execution ; and it shall and may be lawful for the said president and directors, either without any such suit or after it, to sell at public auction, and convey to the purchaser, such share or shares of such stockholder so failing or refusing, giving however one month's notice of the time and place of sale, by advertisement in some newspaper published at the seat of government ; and after retaining the sum due and all costs and charges of the suit or of the sale, or of both, out of the proceeds thereof, to pay the surplus over to the former owner or his legal representative ; and if the sale shall not produce the sum required to be advanced, with the incidental costs and charges aforesaid, the president and directors may recover the balance of the original proprietor, or his assignee, or executor or administrator, by notice in court as aforesaid ; or if judgment has been already obtained, they may take out execution thereon for the balance due them ; 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 proprietor ; and no sale by the original proprietor or his assigns, nor by the company, shall release the original proprietor from his obligation to the company to pay the whole amount of his subscription ; but the president and directors may proceed against the original proprietor and his assigns, or the assignee of the original proprietor and his assigns, so that they do not exact full payment from both, or any more than one.

12. *Be it further enacted*, That the debt of a stockholder due to this company for stock therein, either as original proprietor or first or subsequent assignee, shall be considered as of equal dignity with judgments in the distribution of the assets of a deceased stockholder by his executor or administrator.

13. *Be it further enacted*, That it shall and may be lawful for the said company to purchase and hold, and take by gift or devise all lands and other estate and property of any kind, to be by them

used or improved, or resold and conveyed: *Provided*, the said property and estate are faithfully applied to the purposes and objects hereby intended to be effected; and in general meetings and at other times, the president and directors for the time being are hereby authorized and empowered, by themselves or their agents, to exercise all the powers herein granted, and all such other powers and authority for the effectual prosecution of the undertaking hereby intended to be effected, and for the management of the affairs of the corporation, not herein before granted, as may be necessary to carry into effect the object of this grant.

14. *Be it further enacted*, That if the president and directors aforesaid cannot agree with the owners of land through which it may be necessary to make the said rail road, as to the terms upon which the said rail road shall be opened through the same, then it shall and may be lawful for the president and directors to file a petition, in the name of the company, in the court of pleas and quarter sessions of the county wherein the land lies, under the same rules and regulations as are now prescribed by law for laying off public roads in said county; and upon the filing of said petition, the same proceedings shall be had as in cases of laying off public roads, excepting these, to wit: the president and directors, by themselves or by their agent, shall mark out the course of the road, and it may be wide enough to give the company sixtyfive feet clear on each side of the base of the road; and the jury, in assessing the damage, shall likewise assess the value of the benefits resulting to the owners of the land for the constructing of the road through or near the lands of the owner or owners of that which is marked out for the road, and the jury shall be sworn to act accordingly; and when the jury shall have assessed the damages to the owner or owners of the land, through which the road is laid off, and also the value of the benefit resulting as aforesaid, it shall be returned to court, and final judgment entered accordingly for the damages assessed, which, however, shall be extinguished *pro tanto* by the value of the benefits resulting to the owner; and it shall be lawful for the company or the president and directors to pay the difference, if there be any, into the office of the clerk for the use of the owner or owners, or his, her or their guardian, as the case may be, and thereupon, and also if there be no damage due, enter upon the land laid off, and construct their road or other improvements thereon, to make all necessary excavations and embankments, and to hold the said land to their own use and benefit; and in all things have the same power over the said land so laid off as though they owned the fee simple therein: *Provided*, that nothing in this act contained shall be so construed as to give power to said company to lay off said road through the yard, garden or burial ground, appurtenant to the mansion house of any person whatever, without the consent of the owner thereof, or his, her or their guardian, as the case may be.

15. *Be it further enacted*, That the written consent of any owner or proprietor of any lands through which the said road is to be constructed, showing his, her or their agreement to the same, shall

be valid and effectual to give the same power and authority over the lands covered by the road, and sixtyfive feet on each side thereof as aforesaid, as if the same had been conveyed by a deed of bargain and sale, or condemned upon petition as aforesaid; and although the said lands may belong to a *feme covert*, the signing of such assent by her and her husband shall be as conclusive and effectual against her, as though she had been a *feme sole*, subject however to the proviso contained in the preceding section; and this assent shall be binding and conclusive though it be signed before the company is formed.

16. *Be it further enacted*, That when any wood, gravel, earth or stone shall be wanted for the construction or repairing of said road, and the president and directors cannot agree with the owners of the lands adjacent as to the terms for which they can procure the same, then it shall be lawful for the president and directors, by themselves or agents or officers, to enter upon any adjacent lands not in a state of cultivation, and take therefrom all wood, stone, earth or gravel so needed as aforesaid: *Provided*, that they shall not, without the owner's consent, cut down any fruit trees, or trees preserved in any lot or field for shade or ornament, or take any timber, gravel or stone, constituting any part of a fence or building; and when any gravel, stone, or earth shall be taken as in this act is provided, the president and directors may tender amends to the owner or proprietor; and if the owner or proprietor shall be dissatisfied with the amount, he may refuse it, and file his petition against the company in any court of the county where the land lies, (first giving ten days' notice thereof to the president and directors) praying to have a jury summoned to go upon the land, view it and assess the damages he, she or they may have sustained thereby; upon which it shall be the duty of the court to order a jury as in laying off public roads; which jury shall go upon the lands, and, after being duly sworn to do equal justice to all parties, they shall consider what damages the owners of the land shall have sustained; and, after assessing the same, shall return their proceedings to court; and if the court approve thereof, the damages so assessed shall be paid by the company; but if the court shall not approve thereof, they shall order another jury to be summoned, who shall proceed in like manner to assess and make return to the court; and if the court shall approve thereof, the company shall pay the damages assessed; and if they do not pay it, judgment may be entered and execution may issue thereon as against other corporations: *Provided however*, that the jury shall in all cases take into view the benefit which has resulted to the owner of the land by the construction and maintaining of the road: *Provided further*, that if the damages assessed by the jury are not more than the amount tendered by the company or its agent, (although the amount of the tender be not paid into court,) the petitioner shall not recover costs: *And provided further*, that either party not satisfied with the judgment of a county court in such cases, may appeal therefrom to the superior court, upon giving bond and security, as in other cases of appeals.

17. *Be it further enacted*, That the president and directors, and all other officers and agents of the company, may enter upon the lands of any person or persons whatever, for the purpose of surveying a route for the said rail road and laying off the same; and they may mark or chop on the trees the courses laid off as aforesaid, so that they do not invade the dwelling or the yard or garden of any person or persons, without his, her or their consent.

18. *Be it further enacted*, That if the president and directors of said company shall, without the consent of the owner, construct the said rail road over the lands of any person or persons before a condemnation of the same in the manner provided in the preceding section, it shall and may be lawful for the owner or owners of said lands to petition after the manner and according to the rules provided in the sixteenth section hereof, and not otherwise; and after the assessment of the damages to be paid, and the payment thereof, the property in the ground covered by the road and sixtyfive feet on each side thereof, measuring from the base of the said road, shall become to all intents and purposes vested in the company in fee simple; and if the owners of said lands shall bring any action of trespass against the company or any of its officers, or any other action but a petition as aforesaid, the defendants may give this act in evidence under the general issue, or upon a special plea; and it shall bar the said action or suit.

19. *Be it further enacted*, That it shall and may be lawful for the said president and directors to determine from time to time what instalments shall be paid on the stock subscribed; to purchase with the funds of the company, and place on the said rail road constructed by them, all machines, wagons, vehicles, carriages and teams of any description whatsoever, which may be deemed necessary and proper for the purposes of transportation; and all the property purchased by the said president and directors, and that which may be given to the company, and the works constructed under the authority of this act, and all profits accruing on the said works, and the said property shall be vested in the respective shareholders of the company, and their successors and assigns forever, in proportion to their respective shares; and the shares shall be deemed personal property, and the property of said company; and the shares therein shall be exempt from any public charge or tax whatsoever.

20. *Be it further enacted*, That the stockholders of the said company may, at any general meeting, reopen the books of subscriptions, under regulations to be prescribed by them, to increase the capital stock of said company until the whole capital of eight hundred thousand dollars is subscribed; or they may sell the stock remaining unsubscribed for, and the advance on the same above par shall belong to the proprietors of the stock originally subscribed; and in case the books are opened, after a part of the road is completed and profits received thereon and expended on the road, the original subscribers shall be reimbursed, out of the profits of the road, the amount of profits that has been expended anterior to the last subscriptions, before any dividends of profits is made among all the stockholders.

21. *Be it further enacted*, That the stockholders in general meeting, may, if they think fit, resolve to construct a branch or branches to the main road, to be connected with the main road at such point or points as they may determine on, and to lead in such direction, and to such a point or points as they may think best ; and in order that they may do so, the said stockholders are fully authorized to cause books to be opened for subscriptions to the said lateral road or branch of the main road ; and the subscribers for stock shall be subject to all the rules previously made by the company, and become members of the company with this exception only, viz. : that the stock subscribed by them shall be faithfully and honestly applied to the construction of that branch of the road for which they subscribed it ; but the subscribers for the main road and the branches shall constitute but one company ; and their rights of property and estate shall be in common, and not separate : *Provided however*, that the whole capital of subscribed stock shall not exceed one million of dollars.

22. *Be it further enacted*, That all the powers, rights and privileges conferred by the preceding sections upon the said company, in respect to the main road, and the lands through which it may pass, are hereby declared to extend in every respect to the said company, and the president and directors thereof, in the laying out, in the construction, and in the use and preservation of said lateral or branch roads.

23. *Be it further enacted*, That it shall and may be lawful for the said company to construct a branch to the main road as aforesaid, under the restrictions aforesaid, so soon as the main road has reached the point at which the branch road is intended to be joined with the main road ; but they shall not, under any pretence whatever, apply the funds of the company to the construction of a lateral or branch road, until the main road is completed, except they be subscriptions specifically made for the branch or lateral road.

24. *Be it further enacted*, That no person shall have leave to connect or intersect with the said rail road or any of its branches, unless it shall be done by some company incorporated in this State ; and in all such cases, the company intersecting shall erect the most approved and suitable apparatus for weighing the cars, or other vehicles, that are to be brought over the road intersected with ; and if they fail to do so within a reasonable time after a request made of them, the company omitting this shall forfeit and pay to the other company two hundred dollars, to be recovered by action of debt before any court of record in this State ; and shall be liable, moreover, to pay the cost of such an apparatus after it is put up by this company, which shall be recoverable by an action on the case brought before any court of record in this State : *Provided however*, that the General Assembly shall not grant this right to intersect with this road to any company, who shall build a road less than twenty miles long on one side of this road.

25. *Be it further enacted*, That where a branch or lateral road to the main road is shorter than twenty miles, no other person or company shall be authorized and empowered to build a rail road

from any point near its termination, so as to intersect with this main road in order to injure this company.

26. *Be it further enacted*, That so soon as ten miles of said rail road shall be completed, and as often thereafter as any other section of like length shall be completed, the said company, or the president and directors, may transport all produce or other commodities, that shall be deposited convenient to the said road for that purpose, and which they may be required to convey to any point on said road ; and it shall be lawful for the said president and directors, or the company aforesaid, and they are hereby authorized to erect a toll gate, or toll gates on said roads at such points as they may choose ; and they shall be entitled to receive and to demand the following rates, to wit : not exceeding four cents a mile for toll, and nine cents a mile for transportation per ton of 2000 pounds ; and for the transportation of passengers, not exceeding six cents per mile for each passenger, until the net 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 the net profits ; but when the net profits received as aforesaid from the tolls aforesaid shall have amounted to a sum equal to the capital stock aforesaid, with interest thereon as aforesaid, then the tolls which the said company, or the president and directors, shall be entitled to 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 the company, so as to make them sufficient, in their estimation, to yield a net profit equal to fifteen per cent. per annum on the capital stock of the company over and above what may be necessary for the repairs, improvement or renewal of the same, together with all other incidental expenses of the company ; and it shall not be lawful for any other person or company whatever to travel along or upon the said road or any part thereof, or use it or any part thereof for transportation of produce or otherwise, without the license or permission of the president and directors ; but nothing herein contained, shall be so construed as to prevent the said company from making a contract for the transportation of the mail, upon such terms as may be agreed on between said company and the agents of the United States.

27. *Be it further enacted*, That it shall be lawful for the said company, in the construction of said road, to intersect or cross any public or private way established by law ; and it shall be lawful for them to run their road along the route of any of said roads : *Provided*, that whenever they intersect or cross the said public or private roads, the president and directors shall cause the rail road to be so constructed, as not to impede the passage of travellers on the public road or private way aforesaid ; and whenever the rail road runs over and along with such public common road or way, the president and directors shall cause the new common road (which shall be laid out by order of the county court upon the petition of the said president and directors) to be opened at their expense ; but the jury empanelled shall again take into view, in

estimating the damages of the owner, the value to the said owner of having the rail road constructed through or near his lands.

28. *Be it further enacted*, That certificates of stock shall be issued under such regulations as the bylaws prescribe ; and the shares of the company shall be transferable according to such rules, and upon such terms only, as may be established by the company in general meeting.

29. *Be it further enacted*, That it shall be lawful for the president and directors to erect warehouses, and other necessary buildings for the use of the company, at convenient and eligible sites ; they may also erect scales at the toll gates or elsewhere on the road, or at the ends of it, to weigh the produce or other commodities conveyed thereon.

30. *Be it further enacted*, That it shall and may be lawful for the president and directors, or the company hereby created, to borrow money for the objects of this act ; and to make and issue all proper evidences of such loan, and assurances for the repayment thereof.

31. *Be it further enacted*, That in all meetings of the company each share shall be entitled to one vote : *Provided*, that the stockholders may, at any general meeting, establish a different scale of voting, if it shall be unanimously agreed to.

32. *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 stockholders, and at any other times when the company shall require it ; and so soon as the rail road is completed, the said president and directors, or a majority of them, shall semiannually make a dividend of the profits of the road among the stockholders ; or, if they shall deem it advisable to do it, they may make such dividends of profits as are collected for tolls and transportation, and all other resources of the company, before the whole is completed.

33. *Be it further enacted*, That if the said company shall not begin the said road, or some part thereof, in three years after the ratification of this act, they shall forfeit all the privileges conferred by this charter. If they shall have not completed the main road from Wilmington to Raleigh, in twelve years thereafter, then the company shall forfeit so much of the rights and privileges hereby created as confer upon the said company the power of extending the said road above the point at which it shall be then constructed ; but they shall not forfeit their property and privileges in any manner as to so much of the road as they have completed : *Provided however*, that the said company shall in good faith expend all their capital subscribed, in endeavoring to construct a rail road along the whole of said route, and providing the necessary vehicles and fixtures for its use and enjoyment.

34. *Be it further enacted*, That if the president and directors shall be unable to agree with the proprietor for the purchase and sale of such quantity of ground, as may be necessary for the erection of a toll house, or a house to cover stationary machines, or to protect engines and cars or other vehicles, together with stables,

warehouses and offices, or for any other use which the convenience of the company shall require, it shall and may be lawful for the president and directors to file a petition in some court of the county where the land lies against the proprietor or proprietors, setting forth the circumstances ; and upon its being made to appear in court that the said proprietor or proprietors have had ten days' notice of such application, the court shall direct a jury to be summoned to go upon the premises ; which jury shall be sworn to do equal and impartial justice, and to assess the damage which the said proprietor will sustain by reason of the condemnation of such land ; and they shall proceed to assess the amount the petitioners ought to pay to the proprietor ; but in assessing said amount the jury shall take into the estimate the benefit resulting to said proprietor from constructing such rail road, and directing the works contemplated, on or near to the lands of the proprietor, but only in extinguishment of damages ; and the said president and directors may afterwards pay the said assessment into court or not as they choose ; if they do pay it, the company shall be seized of such land in fee ; if they refuse to do it, they shall pay the costs ; and the sheriff or his deputy, or the coroner or his deputy, as the case may be, are hereby authorized to administer the said oath to the jury aforesaid.

35. *And be it further enacted,* That it shall and may be lawful for the company hereby created so to construct all such bridges as it may be necessary for them to erect for the purposes of their rail road, as to afford general accommodation to all travellers ; and to demand and receive, by themselves or agents or tenants, from all persons passing over and using such bridges, a reasonable toll, not however to exceed the highest rate of toll allowed by law on any bridge of this State : *Provided however,* that no such toll shall be charged on the produce, or persons, or any commodities which are conveyed in the cars of the rail road.

36. *Be it further enacted,* That full right and privilege are hereby reserved to the State, or to any company hereafter to be incorporated by their authority, to connect with the road hereby provided for, any other road leading from the main route to any part or parts of this State, so that in forming such connection no injury shall be done to the works of the company hereby incorporated.

37. *Be it further enacted,* That if any person or persons shall wilfully, by any means whatever, injure, impair or destroy any part of the road constructed by the authority of this act, or any of the works, buildings, machines, wagons, vehicles, carriages or other property of the company, such person or persons shall be liable to indictment, and upon conviction he, she or they shall be fined and imprisoned at the discretion of the court, not exceeding a fine of one thousand dollars and one year's imprisonment ; and be liable moreover to the action of the company for damages, by an action on the case, in any court of record in this State.

38. *Be it further enacted,* That this act shall be in force from and after the ratification thereof ; and all laws and clauses of laws,

coming within the meaning and purview of this act, shall be, and the same are hereby repealed.

AN ACT TO AMEND AN ACT PASSED IN EIGHTEEN HUNDRED AND THIRTYTHREE, ENTITLED AN ACT TO INCORPORATE THE WILMINGTON AND RALEIGH RAIL ROAD COMPANY.

(Passed at the session of 1835.)

Be 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.

2. *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, or 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.

3. *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.

4. *Be it further enacted,* That it shall and may be lawful for the said company to purchase, own and possess steamboats, 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.

5. *Be it further enacted,* That so much of the thirtythird 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 thirtysix, under the penalty prescribed in the said thirtythird section of the before recited act.

6. *Be it further enacted,* That it shall not be the duty of the said company to receive produce, goods, wares and merchandise, 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 thirtythree 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.

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

FAYETTEVILLE AND WESTERN RAIL ROAD.

AN ACT TO INCORPORATE THE CAPE FEAR, YADKIN AND PEDEE RAIL ROAD COMPANY.

(Passed at the session of 1833.)

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That Hugh Campbell, Jr., Hiram Robinson, John Kelly, William Nott, John H. Hall, Louis D. Henry, Robert Strange, Benjamin Robinson, Lewis Brown, John W. Sandford, Joshua W. Cochran, Thomas N. Cameron, Edward L. Winslow, Joseph Baker, Edward W. Wilkins, John Huske, Duncan McRae, Joseph Avery, Jeremiah Kyle, James Seawell, Charles P. Mallett, Oliver P. Starke, Thomas Hybart, Dillon Jordan, Jr., Wm. B. Wright, Peter McKeller, Lauchlin Bethune, Josiah Evans, Chas. McAllister, John B. Kelly, John Morrison, Edmund Deberry, John Martin, Duncan McRae, Jr., Hardy Morgan, Paul Barringer, Abram F. Alexander, Joseph Young, Thomas L. Cowan, Robert McNamara, Maxwell Chambers, Alexander Gray, William Hogan, Benjamin Elliott, Gideon Seawell, Alexander Little, John A. McRae, Samuel F. Patterson, Edmund Jones, James Wellborn, Jones Fuller, James Kyle, John M. Strong, William Hawley, Williamson Whitehead, John D. Eccles, their associates, successors and assigns, be, and they are hereby made a body politic and corporate, under the name of "The Cape Fear, Yadkin and Pedee Rail Road Company ;" and by that name shall be, and are hereby made capable in law to sue and be sued to final judgment and execution, plead and be impleaded, defend and be defended, in any court of record of this State, or in any other place whatsoever ; to make, have and use a common seal, and the same to break, renew or alter at pleasure ; and in said name shall have succession, and shall be, and are hereby vested with all the powers, privileges and immunities which are, or may be necessary to carry into effect the purposes and objects of this act, as hereinafter set forth, and the said corporation are hereby authorized and empowered to create, construct and finally complete a rail road, beginning

at the river Cape Fear, in Fayetteville, and thence to the summit of the Narrows of the Yadkin river, in a line leading in a direction to the town of Wilkesborough; also a lateral rail road connecting said road from Fayetteville to the Yadkin with the Pedee, at the mouth of Rocky river, and thence to penetrate Mecklenburg and Lincoln counties; also one other lateral rail way embracing Asheborough, in Randolph county; in such manner and form as said corporation shall deem most expedient; and for that purpose the said corporation are authorized to lay out said roads at least sixty-five feet wide, through the whole length thereof; and for the purpose of cuttings, embankments, and obtaining stone and gravel, may take as much more land as may be necessary for the proper construction and security of said roads: *Provided however*, that all damages that may be occasioned to any person or persons, or corporation, by the taking of such lands or materials for the purposes aforesaid, shall be paid for by said corporation in manner hereafter provided.

2. *Be it further enacted*, That the capital stock of said corporation shall consist of ten thousand shares, of fifty dollars each. The immediate government and direction of the affairs of said corporation shall be vested in seven directors, who shall be elected by the stockholders of said corporation, in manner hereafter provided, who shall hold their offices for one year, and until others shall be duly elected and qualified to take their places as directors; and the said directors, a majority of whom shall form a quorum for the transaction of business, shall elect one of their own number to be president of the board, who shall also be president of the corporation; and said directors shall have authority to choose a clerk, who shall be sworn to the faithful discharge of his duty; and a treasurer, who shall give bond to the corporation, with security to the satisfaction of the directors, in a sum not less than twenty thousand dollars, for the faithful discharge of his trust, and shall also take and subscribe an oath of office.

3. *Be it further enacted*, That the president and directors for the time being are hereby authorized and empowered, by themselves or their agents, to exercise all the powers herein granted to the corporation, for the purpose of locating, constructing and completing said rail roads, and all such other powers and authority for the effectual prosecution of the undertaking hereby intended to be effected, and for the management of the affairs of the corporation, not heretofore granted, as may be necessary and proper to carry into effect the object of this grant; to purchase and hold lands, materials and other necessary things, in the name of the corporation, for the use of said roads; to make such equal assessments from time to time, on all the shares in said corporations as they may deem expedient and necessary in the progress and execution of the work, and direct the same to be paid to the treasurer of the corporation, and to require the treasurer to give notice of such assessments; and in case any subscriber or stockholder shall neglect to pay his assessment, for the space of thirty days after due notice by the treasurer as aforesaid, the directors may order the

treasurer to sell such share or shares at auction, at some public place, after giving at least ten days' public notice of such sale, and the day and place at which said sale shall take place; and the person being the highest bidder for such share or shares, is hereby declared to be the proper owner thereof, and the same shall be transferred accordingly; and such delinquent subscriber or stockholder shall be holden accountable to the corporation for the balance, if his share or shares shall sell for less than the assessment due thereon, with interest and costs of sale, and shall be entitled to the overplus, if the same shall sell for more than the assessment, interest and costs of sale as aforesaid: *Provided*, that no assessment shall be made or laid on any share, exceeding the whole amount of such share or shares.

4. *Be it further enacted*, That the said corporation shall have power and authority to make, ordain and establish all such bylaws, rules and regulations and ordinances, as they shall deem expedient and necessary to accomplish the designs and purposes, and to carry into effect the provisions, of this act, and for the well ordering, regulating and securing the interest and affairs of this corporation: *Provided always*, the same shall not in any wise be repugnant to the laws and constitution of this State.

5. *Be it further enacted*, That a toll be, and is hereby granted and established, for the sole benefit of said corporation, on all passengers and property of any description, which may be conveyed or transported upon said rail roads, at such rates per mile, and by the ton or hundred, as may be agreed upon and established from time to time by the directory aforesaid. The transportation of property and persons, the construction of the wheels, the form of cars and carriages, and weight of loads, and all other matters and things relating to the use of said roads, shall be in conformity to such rules and regulations as said directory shall from time to time prescribe and direct; and they shall be entitled to receive and demand toll not exceeding the following rates, viz. four cents per ton per mile for toll on property, goods or merchandise, the freight of which is usually charged by the ton of two thousand pounds, for transportation, and not exceeding six cents a mile for each passenger, until the net profits arising from the charges for transportation shall amount to a sum equal to the capital stock expended, with six per centum interest thereon from the time the money was advanced by the stockholders of said corporation until received back in net profits. But when the net profits received as aforesaid shall have amounted to a sum equal to the capital stock expended, with six per centum interest thereon as aforesaid, then the charges for transportation shall be so regulated by said corporation, as shall not exceed upon the whole capital stock expended, after deducting all charges and expenses whatever for keeping said roads in repair and for other purposes for the use of said roads, seven per centum interest upon the whole capital stock expended by said corporation as aforesaid.

6. *Be it further enacted*, That the directors aforesaid for the time being are hereby authorized to erect toll gates and to estab-

lish warehouses and such other buildings, as they may deem necessary for the use of said road or roads, and appoint toll keepers and other agents to attend to the regulations required by said corporation from time to time, as the work of said roads shall be completed; and they shall from year to year make report to the legislature, under oath, of their acts and doings, of their receipts and expenditures, under the provisions of this act; and their books shall at all times be open to the inspection of any committee of the legislature appointed for that purpose; and if said corporation shall neglect or refuse to make such report at the General Assembly in each and every year, for every such neglect or refusal said corporation shall be liable to pay, to the use of the State, a sum not exceeding ten thousand dollars, to be recovered upon an action of debt in the name of the governor of the State for the time being, in any court of record of this State.

7. *Be it further enacted*, That said corporation shall be holden to pay all damages that may arise to any person or persons, corporation or corporations, by taking their lands for said rail roads; and when said lands cannot be obtained by voluntary agreement, the damages to be established and recovered in manner and form as follows: that in case of disagreement by the parties, either may apply to the next succeeding county or superior court of the county in which such 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 shall be considered just and equitable, and who shall make such valuation or assessment upon oath, which oath shall be administered to them by the sheriff; and the court at the time such application is made, shall order and require the sheriff forthwith to summon a jury of twelve freeholders, unconnected with either party, who shall, on a day appointed by the order requiring the sheriff so to summon said jury, within fifteen days from the end of the term of said court, view the lands through which said road is to run; and in estimating the value or damages, as the case may be, of said lands, they shall have regard to the additional value which may be conferred upon them by the construction of said road: *Provided however*, that the party, applying for the intervention of such jury, shall give the adverse party at least five days' notice of his, her or their intention to make such application; and the said corporation shall, within thirty days from such assessment or valuation, pay to the owner the full amount of the same. And the sheriff shall require from the jury a written statement of their valuation or assessment, signed by the whole of them; which statement of their valuation or assessment he is hereby required and directed, together with his other proceedings had upon the same, to return to the next term of said court; and the clerk thereof is hereby required to record the said proceedings at full length upon the minutes of said court: *Provided nevertheless*, that nothing herein contained shall prevent the party dissatisfied, from the right of appealing as in other cases of like nature.

8. *Be it further enacted*, That lands, or other property or estates of any married woman, infant, or person *non compos mentis*, which

shall be necessary for constructing said roads, the husband of such married woman, and the guardian of such infant, or person *non compos mentis* may release all damages in relation to such lands or estates, to be taken and appropriated as aforesaid, as they might do if the same were holden by them in their own right respectively.

9. *Be it further enacted*, That if any person or persons shall wilfully, maliciously or wantonly obstruct the passage of any carriage on said roads, or in any way spoil, injure or destroy the same, any part thereof, or any implement or fixture belonging thereto for the use of said roads, he, she or they, or any person or persons assisting, aiding or abetting in such trespass, shall forfeit and pay to said corporation for such offence treble such damages, as shall be proven before any justice of the peace, or court of record of this State having jurisdiction of the same, to be recovered by an action of debt, to the use of the corporation; and such offender or offenders shall be further liable to indictment within the county where such trespass shall have been committed, contrary to the before recited provisions, and upon conviction thereof, be fined or imprisoned at the discretion of the court.

10. *Be it further enacted*, That the stockholders of said corporation shall, on the first Monday in November, in each and every year, hold, in the town of Fayetteville, an annual or general meeting, but which may be altered to any other day by said stockholders, a majority thereof agreeing to the same, and at which annual or general meeting the stockholders shall, by ballot, elect seven directors aforesaid; and that said directors so elected, shall appoint their president and other officers, as is herein before directed. Each proprietor or stockholder, for his, her or their share owned in said corporation, shall be entitled to one vote for every share as far as five, and for every five shares over five, and not exceeding twenty, three votes; for every ten shares over twenty, and not exceeding fifty, two votes; for every ten shares over fifty, and not exceeding one hundred, one vote; for every twenty shares over one hundred, and not exceeding two hundred, three votes; and for every ten shares over two hundred, one vote: *Provided*, that no one proprietor or stockholder shall be entitled in his own right to more than two fifths of the whole number of shares: *And provided also*, that nothing herein contained shall be construed to prevent any stockholder in said corporation from voting in general meeting by proxy.

11. *Be it further enacted*, That if said rail road, or any of its lateral roads, shall cross any public or private way, the said corporation shall so construct said rail roads, or make such provisions for crossing said public or private way, as shall not obstruct the easy passage of such way or ways.

12. *Be it further enacted*, That the State of North Carolina shall be entitled to, and have preference to subscribe for two fifths of the capital stock herein before authorized to be created and owned by said corporation, and in like manner shall be entitled to two fifths of the increased amount of capital stock hereinafter authorized by this act; and that the interest which the State shall

may own in said corporation, shall, at the general meetings of said stockholders, be represented by an authorized agent, appointed in such manner as the legislature shall from time to time direct ; and such agent shall be entitled, in the general meetings aforesaid, to two fifths of the whole number of votes, and no more.

13. *Be it further enacted*, That the persons incorporated by this act, or a majority of them, are hereby authorized and directed to call the first meeting of said corporation, and to give notice thereof in the newspapers published in Fayetteville, Salisbury, Greensborough, Raleigh and Wilmington, of the time, place and purpose of such meeting, at least ten days before the time mentioned in such notice ; at which meeting the persons incorporated as aforesaid (a majority thereof being present) shall elect seven directors ; which directors shall organize a board, as is herein before directed, for the purpose of opening books of subscription for the reception of subscribers to the capital stock of said corporation, and for such other purposes as may and shall be necessary for the regular organization of the affairs of the corporation, and of giving full and efficient effect to this act : *Provided however*, that the directors elected at said first meeting, shall not be in office as directors for a longer period than the annual general meeting to be held, and required by this act, on the first Monday of November next ; at which time a new election shall take place by the stockholders, as is herein before directed by this act.

14. *Be it further enacted*, That in addition to the capital stock herein before authorized by this act, the said corporation, for the purpose of extending said rail road and its lateral branches, are hereby authorized to increase and add to the capital stock aforesaid, a sum not exceeding five hundred thousand dollars, in shares of fifty dollars each ; and the stockholders of said corporation, in general meeting, shall have power to direct books of subscription to be opened for receiving subscriptions to such increase of its capital stock, at such time, place or places, as the directors of said corporation shall or may deem proper ; or, if deemed most advisable, such directors may sell such increased shares of the capital stock as may be required to extend said road or roads, as herein-after directed, or acquire said capital, or any part thereof, by loan, and may pledge the scrip of the stock of the corporation as collateral security for such loan, or any other loan which the directors may deem necessary to make, to effect the objects of this act.

15. *Be it further enacted*, That said corporation is hereby authorized to extend said rail road, and any of its lateral ways, to such point or points in the counties of Mecklenburg and Lincoln, as shall and may be found advisable ; also to any point or points within the direction of Salisbury, Statesville and Wilkesborough, and by any other lateral roads, so as to embrace and penetrate Randolph, Guilford, Rockingham and Stokes counties.

16. *Be it further enacted*, That the president and directors aforesaid shall prescribe the form of the certificate or evidence of stock in said corporation ; which shall be signed by the president and countersigned by the treasurer thereof, and shall prescribe the

manner of transferring said certificate of stock, and of making the same assignable.

17. *Be it further enacted*, That said directors may put said road, or any part thereof, in operation as soon as the same may be completed, and semiannually shall declare dividends out of any net profits, or any portion thereof, as may be deemed advisable, and the same pay over to each stockholder in proportion to his, her or their share or shares.

18. *Be it further enacted*, That where it shall become necessary to erect bridges for the use of said road or roads across any river, said directory shall have authority so to construct such bridge or bridges as shall admit of being used by travellers and for neighborhood use, and may ask, demand and receive tolls for crossing the same : *Provided*, that the rate of toll shall not exceed the prices charged by the ferries on such rivers, nor shall toll be charged for persons and passengers on the rail road car.

19. *Be it further enacted*, That it shall be lawful for said directory to receive donations, borrow money, and secure the payment of the same by a pledge of the property of the corporation, and make and issue evidences for such loans, and other assurances for the payment thereof.

20. *Be it further enacted*, That the stockholders in said corporation shall from time to time, at their general meetings, regulate and fix the salaries of the directory and other officers of the corporation ; but that the directory shall fix the compensation to be paid to the agents or superintendents of the corporation.

21. *Be it further enacted*, That the directory shall have power to call a general meeting of the stockholders ; and that any number of stockholders, owning one thousand shares in said corporation, shall also have power to call a general meeting ; which meeting the directory shall convene within forty days immediately after such request of the stockholders as aforesaid, giving thereof not less than thirty days' notice in the public newspapers printed in Fayetteville, and in such other newspapers as the directory may deem advisable.

22. *Be it further enacted*, That unless the said company shall complete twenty miles of said road within four years from the passage of this act, and unless they shall complete the said road to the Narrows of the Yadkin within ten years of this date, then this act shall be void and of no effect : *Provided*, that such forfeiture shall not take away the right of the company to any part of said road, which may have been completed at the end of either of the periods aforesaid.

23. *Be it further enacted*, That it shall be lawful for the General Assembly, at any time hereafter, to authorize the construction of any other road to intersect, or be connected with, this road, which may lead to any market within the limits of this State.

AN ACT SUPPLEMENTARY TO THE ACT ENTITLED AN ACT TO INCORPORATE THE CAPE FEAR, YADKIN AND PEDEE RAIL ROAD COMPANY.

(Passed in the session of 1834.)

Be 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 directory of said company, shall regulate the rates of toll and other charges for transportation, and shall be entitled to ask, receive and demand the same, not exceeding the following rates, that is to say : four cents the mile for toll the ton on property, goods, wares or merchandise ; the freight of which, is usually charged by the package, bulk or ton, and eight cents a mile the ton of two thousand pounds for transportation, and six cents a mile for each passenger, until the net profits arising from the charges for transportation, shall amount to a sum equal to the capital stock expended, with six per centum per annum thereon, from the time the money was advanced, or otherwise raised by the company, until paid back in net profits to the stockholders ; but when the net profits so recovered back by the stockholders, shall be equal to the capital expended as aforesaid, with six per centum per annum interest thereon, then the charges for transportation, shall be so regulated by said corporation, as shall not exceed seven per centum upon the whole capital stock, including charges for keeping up said road in repair, and all other expenses whatever, attending the operations of the same : *Provided always,* that the foregoing rates shall not be applicable to the transportation and delivery of property, goods, wares or merchandise, from and to the river landing, within the limits of the town of Fayetteville : *And provided further,* that the price charged by said corporation, for the transportation and delivery within Fayetteville, shall not exceed two-thirds of the price of the present rates, established by an ordinance of the police of Fayetteville, regulating the rates of drayage and wagonage.

2. *Be it further enacted,* That when any person or persons shall be convicted before a justice of the peace, under the ninth section of said act of incorporation, the person or persons so convicted, shall have the right of appeal to the next county court of the county in which such offence shall have been committed, the party appealing entering into bond for the same, with such security as is, and may be established by law, in cases of appeals from before a justice of the peace, any law, usage or custom to the contrary notwithstanding.

AN ACT TO AMEND THE CHARTER OF THE CAPE FEAR, YADKIN AND PEDEE RAIL ROAD COMPANY.

(Passed at the session of 1836.)

Be 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 subscribers and stockholders of the Cape Fear, Yadkin and Pedee Rail Road Company, be hereafter known by the name and style of the Fayetteville and Western Rail Road Company.

2. *Be it further enacted,* That they are hereby authorized and empowered to construct and finally complete a rail road from the town of Fayetteville to some point on the Yadkin river above the Narrows; thence, by two branches the one leading directly to the town of Wilkesborough, the other running across the valley of the Catawba river, so as to intersect the Charleston and Cincinnati Rail Road, at the most eligible point.

3. *Be it further enacted,* That the capital stock of said company shall consist of twenty thousand shares, of one hundred dollars each, amounting to two millions of dollars.

4. *Be it further enacted,* That when the net profits of said company shall have amounted to a sum equal to the capital stock, with six per centum interest thereon, then the charges for transportation shall be so regulated as not to exceed, upon the whole capital stock expended, after deducting all charges for keeping said road in repair and for other purposes, fifteen per centum interest upon the whole capital stock expended by said corporation.

5. *Be it further enacted,* That if, upon the examination of that part of the route leading from the point where the road shall strike the Yadkin river, or any portion thereof, and extending through the valley of said river to the town of Wilkesborough, the stockholders of said corporation, in general meeting, (a majority of two thirds being in favor thereof,) shall determine upon the expediency of rendering said river or any portion thereof navigable, they shall be, and are hereby vested with all necessary powers to carry the same into effect; and may own, possess and employ upon said river, steamboats and pole boats, and all other crafts suitable or necessary to said navigation; and shall possess all the powers and privileges now possessed and enjoyed by the Cape Fear Navigation Company, and shall also be subject to all the limitations and restrictions which are imposed on the said company, so far as they may be applicable to the navigation of the Yadkin river; and shall be entitled to demand and receive freight for transportation on goods, wares, merchandise, produce and passengers conveyed on their boats, at a rate not exceeding the rate which they, by their act, would be entitled to receive, if conveyed on said rail roads: *Provided,* that nothing contained in this act shall be so construed as to prevent individuals from navigating such portion of said river as is now open for navigation, without hindrance, or the payment of any toll whatsoever.

6. *Be it further enacted,* That it shall be the duty of said cor-

poration to keep a full and fair record of their proceedings, in books provided for that purpose, and shall produce said records in any court of justice, whenever required so to do by order of said court.

7. *Be it further enacted*, That if twenty miles of said rail road be not completed within four years after the passage of this act, then this act shall be void and of no effect.

8. *Be it further enacted*, That so much of the act incorporating the Cape Fear, Yadkin and Pedee Rail Road Company, as comes within the meaning and purview of this act, be, and the same is hereby repealed.

9. *Be it further enacted*, That this corporation shall exist for the term of ninety years, and no longer, unless renewed by the legislature.

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

11. It shall be the duty of the said company to transport all produce and other commodities, delivered at any place of deposit established by said company on said road, and to transport the same in the order of time in which such produce and other commodities shall have been received, so as to do equal justice to all, and give preference to no one.

12. *Be it further enacted*, That all the property, owned by the said company, shall be deemed and held as personal estate, and shall not be subject to taxation for fifteen years from the passage of this act; after which time, whenever the net profits of said company shall exceed six per cent. per annum, the General Assembly of this State may impose a tax, not exceeding twentyfive cents per share, on each share of the capital stock of said company.

13. *Be it further enacted*, That if the North Carolina Central Rail Road Company shall determine in favor of constructing their rail road from or near the harbor of Beaufort, to intersect and unite with the rail road authorized to be constructed by this act, it shall be the duty of the said Fayetteville and Western Rail Road Company to give a preference, in the transportation of all produce and other commodities, brought to their rail road by the North Carolina Central Rail Road, so as to occasion no delay thereof; and if the said company shall refuse or neglect to transport the said produce and other commodities, as required by this section, the said company shall be liable to the person or persons aggrieved, for any damage or injury which may result, for such refusal or neglect, to be recovered before any court of record having cognizance thereof.

RALEIGH AND COLUMBIA RAIL ROAD.

AN ACT TO INCORPORATE THE RALEIGH AND COLUMBIA RAIL ROAD COMPANY.

(Passed at the session of 1836.)

BE 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 William Boylan, Thomas P. Devereux, Duncan Cameron, William H. Haywood, Jun., Charles Manly, Alfred Jones, Beverly Daniel, Weston R. Gales, George W. Mordecai, or any three of them; and at Haywood, under the direction of Jonathan Harralson, Charles J. Williams, Spence McClennahan, Robert Faucett, or any three of them; and at Pittsborough, under the direction of William H. Hardin, Nathan A. Stedman, Joseph Ramsay, Green Womack, or any three of them; at Carthage, under the direction of John B. Kelly, A. Currie, John Morrison, Cornelius Dowd, and J. A. D. McNeill, or any three of them; and at Rockingham, under the direction of Walter F. Leak, James P. Leak, Stephen Wall, and William B. Cole, or any three of them; and at Wadesborough, under the direction of William B. McCorkle, Thomas D. Park, Absalom Myers, Alexander Little, Hampton B. Hammons, or any three of them; and at Fayetteville, under the direction of E. P. Mallett, C. Johnston, John Huske, E. L. Winslow, T. N. Cameron, 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 one million of dollars, in shares of one hundred dollars each, for the purpose of effecting a communication by a rail road, from some point at or near the termination of the Raleigh and Gaston rail road, in the city of Raleigh, to some other point, to be selected by the company hereby incorporated, on the dividing line between the States of North Carolina and South Carolina, within thirty miles of Rockingham, in Richmond county, 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 town of Fayetteville, and the books for receiving the same shall not be closed in less than ten days; and if it shall appear that more than ten 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 ten thousand : *Provided however*, that no reduction shall be made of the subscription of any citizen of this State until the whole of the subscriptions of non-residents shall be stricken off ; 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 reopened, without further notice, as a majority of the above mentioned 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 Columbia 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 and renew at pleasure ; and shall have and enjoy and may exercise all the powers, rights and privileges which other corporate bodies may lawfully do, for the purposes mentioned in this act ; and may make all such bylaws, rules and regulations, not inconsistent with the the laws of this State, or of the United States, as shall be necessary for the well ordering and conducting the affairs of the company.

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.

5. The said commissioners, or their agents, shall forthwith, after the first election of president and directors of the company, pay over to the said president and directors all moneys received by them ; and on failure thereof, the said president and directors may recover the amount due from 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 the peace of said county.

6. When three hundred thousand dollars or more of the stock shall have been subscribed, public notice of that event shall be given by any three or more of the said commissioners 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.

7. To constitute any such meeting, a number of persons entitled

to a majority of all the votes which could be given upon all the shares subscribed, shall be present, either in person or by proxy ; and if a sufficient number to constitute a meeting do not attend on that day, those who attend shall have power to adjourn from time to time, until a meeting shall be formed.

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

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

10. 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.

11. If any stockholders shall fail to pay the sum required of him by the president and directors, or by a majority of them, within one month after the same shall have been advertised in one of the newspapers published in the city of Raleigh, it shall and may be lawful for the president and directors, or a majority of them, to sell at public auction, and to convey to the 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 peace of the county of which he is a resident ; and any purchaser of the stock of the company, under the sale by the president and directors, shall be subject to the same rules and regulations as the original proprietor.

12. *Be it further enacted*, That if the capital stock of the company hereby incorporated, shall be found insufficient for the purpose of this act, it shall and may be lawful for the president and directors of the said company, or a majority of them, from time to time to increase the said capital stock to an amount not exceeding two 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 in the city of Raleigh and such other places as the president and directors may think proper, for any balance of the capital stock created, which may not be taken by 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.

13. *Be it further enacted*, That the president and directors, or a majority of them, shall have power to borrow money for the object of this act ; to issue certificates or other evidences of such loans, and to make the same convertible into the stock of the company, at the pleasure of the holder : *Provided*, that the capital shall not thereby be increased to an amount exceeding two millions of dollars, and to pledge the property of the company for the payment of the same with 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.

14. *Be it further enacted*, That the said president and directors, their officers, agents or servants, shall have full power and authority to enter upon all lands and tenements through which they may desire to conduct their rail road, and to lay out the same according to their pleasure, so that the dwelling house, yard, garden or curtilage of no person be invaded without his consent ; and that they shall have power to enter in and lay out such contiguous lands

as they may desire to occupy, as sites for depots, toll houses, ware houses, engines, sheds, work shops, water stations, and other buildings, for the necessary accommodation of their officers, agents and servants, their horses, mules, and other cattle, and for the protection of property entrusted to their care: *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 acres 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 of it, may lie; and upon such application, the court shall appoint five disinterested and impartial freeholders, to assess the damages to the owner from 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 the guardian, if the owner be an infant or *non compos mentis*, if such owner or guardian can be found within the county; or if he cannot be so found, then such appointment shall not be made, unless notice of the application shall have been published at least one month next preceding, in some newspaper printed as convenient as may be to the court house of the county, and shall have been posted at the door of the court house, on the first day, at least, at the next preceding term of 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 that will be sustained by the proprietor of the land, from the condemnation thereof for the use of the company, and that they will truly certify their proceedings thereupon to the court of said county.

15. It shall be the duty of the said freeholders, in pursuance of the order appointing them, to assemble on the land proposed to be condemned, and after viewing the same, and hearing such proper evidence as either party may offer, they shall ascertain, according to their best judgment, the damages which the proprietor of the land will sustain by the condemnation thereof for the company. In performing this duty, they shall consider the proprietor of the 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 the inconvenience that will result to the proprietor from the condemnation thereof, and shall combine therewith a just regard for the advantages which the owner of the land will derive from opening the rail road through the same.

16. 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 Columbia 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 same order ;) and that, having been first duly sworn, (or solemnly affirmed, as the case may be) and having visited the premises, we proceeded to estimate the quantity and quality of the land aforesaid, the quantity of additional fencing which would probably be occasioned by its condemnation, and all other inconveniences which would probably result therefrom to the proprietor of said land, and that we combined with these considerations, as far as we could, a just regard to the advantages which would be derived by the proprietor of the said land from the opening of the aforesaid rail road through the same ; that under the influence of these considerations, we have estimated and do hereby assess the damages aforesaid at the sum of . Given under our hands and seals, this day of .”

At the foot of the report so made, the magistrate before whom the said freeholders were sworn, shall make a certificate in substance as follows :— “ county, sct. I, a justice of the peace of said county, do hereby certify that the above named freeholders, before they executed their duties, as above certified, were solemnly sworn (or affirmed) before me, that they would impartially and justly, to the best of their ability, ascertain the damages which would be sustained by the above named by the condemnation of the aforementioned land for the use of the Raleigh and Columbia Rail Road Company, and that they would certify truly their proceedings thereon to the court of the said county. Given under my hand, this day of .”

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

18. 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 have so ordered, the land reviewed and assessed as aforesaid, shall be vested in the Raleigh and Columbia 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.

19. While these proceedings are pending, for the purpose of ascertaining the damages to the proprietor for the condemnation of his land, and even before they shall have been 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 to the use of the said company. If, when they so take possession, proceedings to ascertain the damages as aforesaid, be pending, it shall be their duty diligently to prosecute them to conclusion; and when the report of the freeholders, ascertaining the damages, shall be returned and confirmed, the court shall render judgment in favor of the 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.

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

21. 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 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 to the use of the company, shall appoint a day for their meeting, to perform the duties assigned them, and shall dismiss, at the cost of the company, any proceeding then depending in their behalf for the condemnation of the said land. The freeholders so appointed, any three or more of whom may act, shall proceed in the performance of their duties, in all respects in the same manner as if they had been appointed by the president and directors of the company; and the court shall in like manner confirm or disaffirm their report, supersede them or any of them, and appoint others in their stead, or direct another view and report to be made, as often as may be necessary; and when any such report, ascertaining the damages, shall be confirmed, the court shall render judgment in favor of the proprietor for

the damages so assessed and double costs, and shall thereupon either compel the company to pay into court, the damages and costs so adjudged, or award process of execution therefor, as to them shall seem right.

22. 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. *Be it further enacted*, That the written consent of any owner or proprietor of any lands through which the said road is to be constructed, showing his or their agreement to the same, shall be valid and effectual to give the same power and authority over all land required for the construction of the road, as if the same had been conveyed by deed of bargain and sale, or condemned upon petition, as aforesaid.

23. 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 the authority of this act, for all incidental injuries done to the enclosure, crops, wood or ground, in taking and carrying away the same, the said president and directors shall make to the owner a fair and reasonable compensation, to be ascertained, if the parties cannot agree, by any three impartial and disinterested freeholders, who, being appointed for that purpose by any justice of the peace thereto required by the owner, shall be sworn by him, and shall then ascertain the compensation upon their own view, of the wood, gravel, earth or stone taken, and for the injury done as aforesaid in taking them: *Provided however*, that it shall be the duty of the owner or owners to show to the justice of the peace to whom the application is made, that ten days' previous notice of making the same, has been given to the president or one of the principal agents of the rail road company; and no award which may be given under any appointment, without such notice, shall be obligatory or binding on the company: *Provided however*, that either party, not satisfied with the award which may be given as above, may appeal to the court of pleas and quarter sessions of the county in which the land may be situated, who may, as in the case of the assessment of lands, confirm or disaffirm the report of the freeholders, supersede them, or any of them, and appoint others in their stead, or direct another view and report to be made, as often as may be necessary.

24. If the said president and directors, in entering upon the

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

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

26. The said president and directors, or a majority of them, shall have power to purchase with the funds of the company, and place on the rail road constructed under this act, all machines, wagons, vehicles and carriages and teams of every description whatsoever, which they may deem necessary or proper for the transportation of persons or property ; or if they should deem it 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.

27. All machines, wagons, vehicles and carriages, purchased as aforesaid with the funds of the company, or engaged in the business of transportation on said rail road ; and all the works of said company constructed, or property acquired under the authority of this act, and all profits which shall accrue from the same, shall be vested in the respective stockholders of the company forever, in 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 twentyfive cents per annum on each share of the capital stock, whenever the annual profits thereof shall exceed six per cent.

28. Upon the 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 any depot, on the road most convenient for reception thereof.

29. They shall give no undue preferences 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 recovered.

30. 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, merchandise and other articles, and for 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, merchandise and other articles, not exceeding an average of ten cents per ton per mile ; and for the transportation of the mail, such sums as they may agree for ; and the said president and directors shall be furthermore entitled to demand and receive for the weighing, storage and delivering of produce and other commodities at their depots and warehouses, rates not exceeding the ordinary warehouse rates charged for such services.

31. *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 road, over

the same, they may be entitled to demand and receive from all the 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 tolls which may be allowed by the court of pleas and quarter sessions of the county in which the said bridge may be.

32. As soon as ten miles of the rail road hereby authorized, shall be completed, the president and directors shall annually or semiannually declare and make such dividend as they may deem proper, of the net 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.

33. 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 aforesaid, the proprietors who do attend may adjourn from time to time until such general meeting shall be had.

34. In counting all votes of the said company, each member shall be allowed one vote for each share, not exceeding two shares—one vote for every two shares above two and not exceeding ten—and one vote for every five shares above ten, by him held at the time in the stock of the company: *Provided however*, that no stockholder, whether an individual, or 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.

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

36. The works hereby required of the Raleigh and Columbia 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.

37. The president and directors shall cause to be written or printed, certificates of the shares of the stock in the said company, and shall deliver one such certificate, signed by the president and countersigned by the treasurer, to each person, for the number of shares subscribed by him, which certificate shall be transferable by him, subject however, to all payments due or to become due thereon; and such assignee, having first caused the transfer or assignment to be entered in a book of the company, to be kept for the purpose, shall thenceforth become a member of the company aforesaid, and shall be liable to pay all sums due or to become due

upon the stock assigned him : *Provided however*, that such assignment shall in no wise exempt the assignor or his representative from their liability to the said company for the payment of all such sums, if the assignee or his representative shall be unable or fail to pay the same.

38. If any person or persons shall wilfully, by any means whatever, impede or hinder the construction of, injure, impair or destroy any part of the rail road to be constructed under this act, or any of the necessary works, machines, wagons, vehicles, carriages, or other property belonging to the said company, or shall place any obstruction on said road, such person or persons shall be deemed guilty of a misdemeanor, and on conviction thereof in the court of pleas and quarter sessions, or superior court of law, of the county in which the offence may be committed, shall be fined and imprisoned at the discretion of the court.

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

40. *Be it further enacted*, That any rail road which may hereafter be constructed by the State or by any company incorporated by the legislature, shall be at liberty to cross the road hereby allowed to be constructed, upon a level or otherwise, as may be advantageous, provided the free passage of the Raleigh and Columbia rail road is not thereby obstructed.

41. *Be it further enacted*, That whenever the rail road shall be so crossed or approached by any other rail road incorporated by this State, the said Raleigh and Columbia 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 such 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 rail road at such place.

42. *Be it further enacted*, That this act shall take effect and be in force from and after its ratification, and shall enure and continue for the term of ninety years, and no longer.

NORFOLK AND EDENTON RAIL ROAD.

AN ACT TO INCORPORATE THE NORFOLK AND EDENTON RAIL ROAD COMPANY.

(Passed at the session of 1836.)

WHEREAS, an act of incorporation was passed by the legislature of this State, at its session in one thousand eight hundred and thirtyfour, entitled "An act to incorporate the Albemarle Rail Road Company," which act was confirmed by the legislature of Virginia, on the twelfth day of February, one thousand eight hundred and thirtyfive, upon condition that the said Albemarle Rail Road should intersect "the Portsmouth and Roanoke Rail Road," at such point thereof, at or near Suffolk, as should be selected by the president and directors of the Portsmouth and Roanoke Rail Road Company, and upon such terms as they should deem expedient; which location or conditions defeated the intentions of the said act, and prevented any further progress therein, than that of opening books of subscription at Edenton, Suffolk and Norfolk, for one hundred days, as required by the act, but at which places not a share was subscribed. And whereas it is further represented to this assembly, that a number of the citizens of the counties of Chowan, Perquimons, Pasquotank and Camden, in this State, and of the borough of Norfolk, in the State of Virginia, are still desirous to construct a similar rail road, provided it shall pass through the said counties, and terminate in the borough of Norfolk; and, for the accomplishment of so desirable an object, have pledged themselves by subscribing for large sums of money, have already had the route of the road surveyed, and will immediately commence its construction on being invested with the same powers and privileges which were granted to the Albemarle Rail Road Company, or with others of similar import:

Be it therefore enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That it shall be lawful to open books in the town of Edenton, under the direction of James C. Johnson, Joseph B. Skinner, Joseph H. Skinner, Joshua Skinner, Charles W. Mixon, James Norcom, Sen., or a majority of them; and in the borough of Norfolk, under the direction of Marshall Parks, George McIntosh, John N. Tazewell, Richard H. Chamberlaine, John Cowper, Henry Woodis and Walter Herron, or any three of them; and at such other places and under the direction of such other persons, as the commissioners herein named, or any three of them, shall designate and appoint, for the purpose of receiving subscriptions to the amount of four hundred and fifty thousand dollars, to be divided into shares of fifty dollars each, to constitute a joint capital stock for the purpose of making a rail road from the town of Edenton, in this State, to the borough of Norfolk, in the State of Virginia; the subscriptions already made for the purposes aforesaid, being held and

considered as so much of the capital stock of this company, to construct the rail road from Edenton to Norfolk, and being placed on the same footing as those which may hereafter be made.

2. The time and places of receiving such further subscriptions, shall be advertised in such manner as the commissioners before named may direct ; and the books for receiving the same shall be kept open thirty days ; and should it appear at the expiration of the thirty days, that more than the requisite sum shall have been subscribed for upon the books, including the subscription already made for this object, it shall be the duty of the commissioners, or any three of them, to reduce the number of shares subscribed for by each individual or body corporate, in fair and equal proportions, until the whole number of shares be reduced to ninety thousand : *Provided*, that no reduction shall be made on subscriptions not exceeding five shares ; but should the whole amount of stock not be subscribed for within thirty days, then the books may be kept open until the whole amount of shares shall have been subscribed : *Provided however*, that as soon as three thousand shares shall have been subscribed, the subscribers are hereby authorized to close the books ; and they, the subscribers, their heirs, executors, administrators or assigns, shall be, and they are hereby declared to be incorporated into a company, by the name and style of "the Norfolk and Edenton 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 or equity, and may make such bylaws, rules and regulations, not inconsistent with the laws of this State or of the United States, as they may deem necessary, for the well ordering and conducting the affairs of said company.

3. *Be it further enacted*, That upon every share subscribed, there shall be paid by the person subscribing, the sum of one dollar, to the commissioners authorized to receive the subscriptions, the persons having already subscribed being subject to the same conditions ; 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.

4. *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, who shall call a general meeting of the subscribers, giving thirty days' public notice in some newspaper printed in Edenton and Norfolk, of the time and place of said meeting. To constitute any such meeting, a number of persons entitled to a majority of votes upon all shares subscribed,

shall be present, either in person or 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. The meeting shall then proceed, a majority of the stock being represented, to elect a president and six 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 hereafter mentioned. An annual meeting of the stockholders of said company shall be held at such time, in each year, as the stockholders, in their first general meeting, may appoint ; at which the election of president and directors shall take place in like manner as above ; and when a vacancy may occur, by death, resignation or otherwise, the vacancy shall 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 two or more directors may have power, in the absence of the president, to appoint one of their body president *pro tempore* and transact business : *Provided always*, the majority of votes representing shares in said company, given at any time against any president or directors of said corporation, shall vacate his office or appointment ; and shall also have power to fill such vacancy until the next annual meeting of the stockholders. Any one or more stockholders, owning one thousand shares, may, at any time, require the president and directors to convene a general meeting of the stockholders, on giving thirty days' public notice, specifying the object of such meeting.

5. *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 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 manner, and under such rules and regulations, as they may deem proper ; 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 month's notice of such call in some newspaper circulating among the subscribers. 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 take such bonds, with security for the performance of duty, as they may prescribe. If any stockholder

or subscriber 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 may have been advertised in some newspaper, it shall and may be lawful for the president and directors, or a majority of them, to sell at public auction, and to convey to the purchaser, the share or shares of such stockholders so failing or refusing, giving one month's public notice of the time and place of sale, in manner aforesaid ; and after retaining the sum due and all charges of sale, out of the proceeds thereof, to pay the surplus over to the former owner or his legal representative ; and if the said sale shall not produce the sum required to be advanced, with the incidental charges attending the sale, then the president and directors, or a majority of them, may recover the balance of the original proprietor or his assignee, or the executor or administrator, or either of them, by motion, on ten days' notice, before the court of that county of which he is an inhabitant, or by warrant before a justice of such county ; 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 original subscribers to the capital stock of the said company.

6. *Be it further enacted*, That the president and directors, their officers, servants, agents and contractors, shall have full power and authority to enter upon all lands and tenements, through which they may think 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 or her consent. If the president and directors cannot agree with the owner of the lands on the terms upon which the 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 said rail road through it. No such appointment shall however 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 within the county ; and 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. 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 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 opening of the said rail road through the same, and that they will certify their proceedings thereupon to the court of the said county.

7. *Be it further enacted,* That it shall be the duty of the 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 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 rail road will occupy, the additional fencing and gates that will be required thereby, and all other inconveniences which will result to the 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 opening the rail road through the same.

8. *Be it further enacted,* That when the said freeholders shall have agreed upon the amount of the damages, they shall forthwith make a written report of their proceedings, under their names 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 Edenton and Norfolk Rail Road Company propose to open a rail road, do hereby certify that we met together 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, (first having duly sworn or affirmed) and having viewed the premises, we proceeded to estimate the quality and quantity of the land aforesaid which would be occupied by the 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 land ; that we combined in these considerations, as far as we could, a just regard to the advantages which would be derived by the proprietor of the land from the opening of the aforesaid rail road through the same ; that under the influence of these considerations, we have estimated and do 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 writing, in substance as followeth : “ _____ county, to wit. I, _____, a justice of the peace for the said county, 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 the said county. Given under my hand _____ day of _____.” The report of the freeholders

so made, together with the certificate of the magistrate aforesaid, shall be forthwith returned by the said 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 on record; but if the said report should be disaffirmed, or the said freeholders, unable to agree, should report their disagreement, the court may, at its own discretion, as often as may be necessary, supersede them, or any of them appoint others in their place, 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 of payment of said damages in court, when, for good causes shown, the court shall so have ordered it, the president and directors shall be at liberty in the mean time to open the said rail road upon the ground viewed and assessed by the freeholders aforesaid: *Provided always*, that either party dissatisfied with the sentence, order or decree of the county court, may appeal therefrom to the superior court of said county.

9. *Be it further enacted*, That whenever it shall be 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 the said company, and for their superintendents, agents, contractors, laborers and servants, 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 lands, from opening and constructing the said rail road through the same, shall in no manner hinder or delay the progress of the said work. 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 works, unless it be manifest that they, their officers, agents or servants are transcending the authority given them by this act, and that the interposition of the court is necessary to prevent injury that cannot be adequately compensated in damages: the true intent and meaning of this act being, that all injury that 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 as aforesaid; if they be not paid to the party or parties entitled to the same or into 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 or their attorney, shall issue an execution for the amount of such damages against the said company, which may be legally issued against a corporation on a judgment for money.

10. *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 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 superintendents, 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 said land, at any time previous to an 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 the 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 same 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 land, 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 the proprietor or proprietors of such lands, or into court, the damages assessed, during the term of the court, on the like application, the clerk shall issue the like execution, for the amount of the damages, against said company.

11. *Be it further enacted*, That 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 twelve and one half cents per annum, per share, on each share of the capital stock, whenever the annual profits thereof shall exceed six per cent.

12. *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 also 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 the authority of this act, or for incidental injuries done to enclosures, 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 shall 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 justice 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 superintendent of the said rail road ; and no award which may be given under any appointment, without such notice, shall be obligatory or binding on said company.

13. *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 the 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.

14. *Be it further enacted*, That the said president and directors shall have power to purchase, with the funds of the said company, and place on said rail road, all machines, locomotives, engines, cars, wagons, vehicles, carriages and teams of any description whatever, which they may deem necessary for the purpose of transportation. All machines, locomotives, engines, cars, wagons, vehicles, carriages and teams purchased as aforesaid, and the works and buildings constructed under authority of this act, and all profits which shall accrue from the same, shall be vested in the respective share holders of the company forever in proportion to their respective shares.

15. *Be it further enacted*, That so soon as the rail road shall be completed, or any ten miles thereof, the president and directors shall be entitled to demand and receive on the same, the following rates of toll, to wit : 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 : on all goods, produce, merchandise or commodity of any description whatsoever, a sum not exceeding twelve cents per ton per mile : for the transportation of the mail, such a sum as they may agree for with the agents of the government : That they shall furthermore be entitled to demand and receive for the weighing, storage and delivering of produce and other commodities, rates not exceeding the ordinary warehouse rates, charged in the seaports

in this State, or in the State of Virginia, until the net 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 the net profits; but when the net 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 net profit of fifteen per cent. per annum on the capital stock invested in said road, and the constructions connected with it, and the cost of the locomotive engines, cars, carriages and other vehicles, and the renewal and repairs of the same. It shall be the duty of the said company to transport all produce and other commodities, which may be delivered at any place of deposit, established by said company, according to the order of time in which the same may be received, so as to do equal justice to all and give preference to no one. 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 tolls due upon such commodities under this act.

16. *Be it 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.

17. *Be it further enacted*, That in counting all the votes of the 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.

18. *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.

19. *Be it further enacted*, That so soon as the said rail road shall be completed, or any ten miles thereof, the president and directors of the said company may demand proportionable tolls, and shall semiannually declare and make such dividends of the net profits of 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.

20. *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 or receive any other or greater toll than herein allowed, he

shall forfeit and pay to 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.

21. *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.

22. *Be it further enacted*, That the said 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 and secretary, 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 that company, and shall be liable to pay all sums due, or which may become due on the stock assigned to him : *Provided however*, that such assignments shall in no case exempt the assignor or his representatives from their liability to the said company, for the payment of all such sums, if the assignee or his representatives shall be unable or shall fail to pay the same.

23. *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 ten 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.

24. *Be it further enacted*, That if any person or persons shall willfully 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 the said company.

25. *Be it further enacted*, That if any person or persons shall willfully, 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.

26. *Be it further enacted*, That if the capital stock of the company hereby incorporated, shall be found insufficient for the purposes of this act, it shall and may be lawful for the president and directors, having first obtained the sanction of a majority of the company, to increase the said capital stock, from time to time, to an amount not exceeding five hundred thousand dollars, by the addition of new stock, having first given twenty days' public notice, that the individual stockholders at the time being, or their legal representatives, may have the option of taking such additional shares, in proportion to the amount of stock held by them respectively ; after which, if necessary, books of subscription shall be opened in Edenton and Norfolk, when the new subscribers for such additional shares of the capital stock are hereby declared to be thenceforward incorporated in the said company, with all the privileges and advantages, and subject to all the liabilities of the original stockholders.

27. *Be it further enacted*, That the president and directors and company shall have power to borrow money for the objects of this act, and to issue certificates or other evidence of such loan, and to make the same convertible into stock of the company at the pleasure of the holder, provided that the capital stock shall not be increased thereby to an amount exceeding five hundred thousand 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 be legally given in favor of the same.

28. *Be it further enacted*, That this act and every part and provision of the same, 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 rates 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 the right of property acquired by the said company, under this act, shall not be taken away or impaired by any future legislature.

29. *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 : *Provided*, that the State reserves to itself or to any company to be incorporated by its authority, the right and privilege to connect with the road hereby authorized, any other road leading from, to or across this to any part or parts of the State, so that in forming such connection no injury shall be done to the work of the company hereby incorporated.

30. *Be it further enacted*, That this company may exercise the

corporate powers hereby granted for the term of ninety years, and no longer, unless by renewal of the charter.

31. *Be it further enacted*, That this act shall be in force from and after its passage by the General Assembly of North Carolina and the legislature of Virginia.

ROANOKE, DANVILLE AND JUNCTION RAIL ROAD.

AN ACT TO INCORPORATE THE ROANOKE, DANVILLE AND JUNCTION RAIL ROAD COMPANY.

(Passed at the session of 1835.)

Be 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 Sumner-ville, Robert Stamper, Daniel Turner, Dr Joseph W. Hawkins, and Henry Fittz. At Oxford, under the direction of Rhodes N. Herndon, Joseph H. Bryan, William M. Sneed, James Cooper, and Thomas T. Hunt. At Hillsborough, under the direction of William Cain, Jun., 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, Jun. 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.

2. *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 bylaws 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.

3. *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 authorized 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.

4. *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 any 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.

5. *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 tracks 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 month's 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, 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 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.

6. 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.

7. 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.

8. 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 superintendents 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.

9. *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 ornament, nor take any timber, gravel, stone or earth, constituting any part of any fence or building. For all wood, stone, gravel or earth, taken under authority of this act; and for all incidental injuries done to the enclosures, crops, woods or 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.

10. 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 superintendents, 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, and at any time after the adjournment of the court, on the like application, the clerk shall issue execution for the amount.

11. 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 president 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.

12. 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.

13. 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.

14. 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, on 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 net 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 net profits ; but when the net 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 net 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 amount of tolls received each year, the expenses and charges incurred during each year, and the net annual profits or loss on the capital stock expended.

15. 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.

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

17. 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 net profits from the tolls hereingranted, 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.

18. 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.

19. 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.

20. 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.

21. 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 assignor 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.

22. 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.

23. *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 vicinity, 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.

24. 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.

25. 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 license 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.

26. *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. *Provided*, 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.

27. *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.

28. *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 rail 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.

29. *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.

30. *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 transferring stock, paying dividends, or receiving instalments.

31. *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.

32. *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 toll 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.

33. *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 thirtysix, 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.

LOUISVILLE, CINCINNATI AND CHARLESTON RAIL ROAD.

AN ACT TO INCORPORATE THE CINCINNATI AND CHARLESTON RAIL ROAD COMPANY.*

(Passed at the session of 1835.)

BE 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 Carolina, 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 sixty 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, Frankfort, Louisville, Waynesville, 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. Mausfield and John S. Williams, and at such other places, 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.

*The name of this company is changed to that of "The Louisville, Cincinnati and Charleston Rail Road Company," by the act incorporating the South Western Rail Road Bank. See *ante* page 73.

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 deposit 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 Greenville, 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, Frankfort, Lawrenceville, Knoxville, Raleigh, Columbia and Charleston, on or before the third Monday of 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 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 member or members 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 thirtyseven ; 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, so 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 thirtyseven, 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 bylaws, as are necessary for the government of the corporation, or effecting the object for which it is created: *Provided* such regulations, rules and bylaws 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 twentyfive directors, of whom three shall be elected from stockholders 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 stockholders, 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 stockholders 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 bylaws, 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 stockholders may direct, and at this meeting the stockholders 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 bylaw 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 bylaws, 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 tracts, to be used with steam, animal, or any other power, which shall pass through the states 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 stockhol-

ders 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 thirtysix years, from the first day of January, in the year one thousand eight hundred and thirtysix, 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 attended 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 thirtyfive cents per hundred pounds on heavy articles, and ten cents per cube foot, on articles of measurement, 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 ninetyfive 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 newspapers in Cincinnati, Lawrenceburgh, Lexington, Frankfort, 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 a default of payment 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 bylaws 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 everything 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 bylaw; 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 bylaws for occasional meetings being called, and prescribe the mode thereof; and the company may provide by a bylaw 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 bylaws 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 bylaw, 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 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 twentyone, nor more than twentysix shares to eight votes ; the owner of not less than twentyseven shares, nor more than thirtythree shares to nine votes ; the owner of not less than thirtyfour 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 *cestui que trust* holds other shares, either in his own name, or in the name of another trustee. But the *cestui 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 depositories, storehouses, houses for the officers, servants or agents of the company, or for workshops, or foundries, 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 creation 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 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 covert*s, 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 wilfully and maliciously cause or aid or assist, or counsel and advise any other person or persons, to destroy or in any manner to hurt, damage, 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 storehouses, they may establish on, or annex to their rail road, or the branches thereof, all goods, wares, merchandise and produce intended for transportation, prescribe the rules of priority, and charge and receive such just and reasonable compensation for storage, as they by rules may establish, which they shall cause to be published, or as may be fixed by agreement with the owner, which may be distinct from the rates of transportation.

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 semiannually 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 inoperative, 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.

AN ACT TO AMEND THE CHARTER OF THE LOUISVILLE, CINCINNATI AND CHARLESTON RAIL ROAD COMPANY.

(Passed at the session of 1836.)

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That the charter of the Louisville, Cincinnati and Charleston Rail Road Company be, and the same is hereby amended in the following particulars, that is to say : three of the twentyfour directors of the said company shall be elected from stockholders residing in each of the States of Kentucky, Tennessee, North Carolina and South Carolina ; and twelve of the said directors may be elected from the stockholders at large without regard to their place of residence.

2. That the said Rail Road Company shall be discharged from all obligations to construct any branches of the said rail road in the State of Kentucky, or to extend the main road in the said State, further than from the southern line thereof to Lexington, in the said State.

3. That whenever it shall be the unanimous vote of the general directors residing in any State requiring it, the general board of directors shall apply the amount subscribed by that State or its citizens, in the first place, to the construction of such portion of the said road as may be within the limits of that State.

4. In case the State of Kentucky should not agree to the amendments above proposed, the said Rail Road Company shall be, and hereby is constituted a body politic and corporate, in the States of South Carolina, North Carolina and Tennessee, with all the powers, rights and privileges granted to it by the acts of the legislatures of the last mentioned States, incorporating it, discharged from all obligations to construct any road in the State of Kentucky, or to have any directors therein, or to have more than twentyone general directors ; but nothing herein contained, shall be construed to release the said company from the obligations to extend their road to the south boundary of Kentucky.

5. *Be it further enacted,* That the said rail road shall pass up the valley of the French Broad river, and cross the Blue Ridge, into Rutherford county, North Carolina.

6. *Be it further enacted,* That it shall be lawful, and power is hereby given to North Carolina, or any company incorporated by her authority, to join the said road, in any of the States where the said rail road shall be constructed under this charter.

NORTH CAROLINA CENTRAL RAIL ROAD.

AN ACT TO INCORPORATE THE NORTH CAROLINA CENTRAL RAIL ROAD COMPANY.

(Passed at the session of 1836.)

Be 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 Beaufort, in the county of Carteret, under the direction of Jeconias Pigott, Benjamin Lecraft, James Manpey, Bridges Arendell, Elijah Whitehurst, Elijah Pigott, Peter Pelletier, James Davis, Levi Oglesby, Isaac Hellen and Francis L. King, or any three of them ; at Trenton, in the county of Jones, under the direction of Hardy Bryan, Lemuel H. Simmons, Emanuel Jarman, John H. Hammond, Nathaniel W. Waples, Francis Duvall, Calvin J. Morris, Charles Gerock, James Brown, James McDaniel, Hardy O. Newton, Jonathan Wood and Owen B. Cox ; at Newbern, under the direction of John Washington, John H. Bryan, John M. Roberts, Oliver Dewey, Sen., Hardy B. Lane, John Harris, John M. Bryan and Abner Hartley ; at Onslow court house, under the direction of William P. Ferrand, John A. Averett, Daniel Dixon, F. J. Humphry and Jarvis Marble ; at Kinston, in the county of Lenoir, under the direction of Nathan G. Blount, John C. Wash-

ington, Needham Whitfield and John P. Dume ; at Kenansville in Duplin county, under the direction of John E. Hussey, Jeremiah Pearsall and Stephen Miller ; at Wanesborough, under the direction of Richard Washington, Jonas Mace, Gabriel Sherrod and Nicholas Washington ; at Snow Hill, under the direction of Charles Edwards, Wyatt Moye and James Harper ; at Clinton in Sampson county, under the direction of William McKey, R. C. Holmes and Ollen Mobley ; at Smithfield, under the direction of David Thompson, Bython Bryan, John McLeod and Josiah Watson ; at Fayetteville, under the direction of John Huske, Edward L. Winslow, Charles T. Haigh and Dillon Jordan ; at Raleigh, under the direction of Charles Manly, Western R. Gales, Allen Rogers, William Roles and Johnston Busbee ; at Pittsborough, in Chatham county, under the direction of William Albright, Green Womach and Robert Fawcett ; at Carthage, in Moore county, under the direction of John Morrison, Samuel C. Bruce and C. H. Dowd ; at Hillsboro', in Orange county, under the direction of James Mebane, James S. Smith and James Webb ; at Greensborough, in the county of Guilford, under the direction of James T. Morehead, Jesse H. Lindsey and John A. Mebane ; at Ashboro', in the county of Randolph, under the direction of W. B. Lane, Jonathan Reding and Michael Cox ; at Lawrenceville, in the county of Montgomery, under the direction of William Harris, James Gaines and John B. Martin ; at Lexington, in the county of Davidson, under the direction of William R. Holt, Samuel Hargrave and Charles L. Payne ; at Louisburg, in the county of Franklin, under the direction of John D. Hawkins, William P. Williams and Henry G. Ruffin ; at Oxford, in the county of Granville, under the direction of John C. Taylor, Robert B. Gilliam and James Wyche ; at Concord, in Cabarrus county, under the direction of Keah P. Harris, William Phifer and Paul Barringer ; at Charlotte, in the county of Mecklenburg, under the direction of Stephen Fox, James Hutchison and James Dunn ; at Salisbury, under the direction of Charles Fisher, Thomas G. Polk, John Clement and Burton Craige ; at Statesville, in the county of Iredell, under the direction of Theophilus Falls, Abner Franklin and Joseph W. Stockton ; at Huntsville, in the county of Surry, under the direction of Nicholas Williams, Samuel Speir and Samuel Davis ; at Germanton, in the county of Stokes, under the direction of Matthew R. Moore, C. L. Banner and R. D. Golding ; at Wilkesborough, in the county of Wilkes, under the direction of James Wellborn, John Finley and Eli Petty ; at Morganton, in the county of Burke, under the direction of A. L. Erwin, Thomas Walton and Robert Pearson ; at Lincolnton, in the county of Lincoln, under the direction of D. Rienhardt, C. C. Henderson and P. Sumner ; at Rutherfordton, under the direction of Edmond Bryan, Theodore T. Buckett and John Gray Bynum ; at Jefferson, in the county of Ashe, under the direction of George Bowers, John Faw and John Ray ; at Asheville, in the county of Buncombe, under the direction of James W. Patton,

John B. Whitesides and James M. Smith ; at Waynesville, in the county of Haywood, under the direction of William Johnston, Joseph Cathey and Robert Love ; at Burnsville, in the county of Yancey, under the direction of Bachus J. Smith, John W. McEllory and Joseph Smith ; at Franklin, in the county of Macon, under the direction of Jesse R. Siler, John Almon and James W. Gwyn ; and at such places and under the direction of such persons, as any three of the commissioners herein before named to superintend the receiving of subscriptions at Trenton, shall direct, for the purpose of receiving subscriptions to an amount not exceeding two millions of dollars, to constitute a joint capital stock for the purpose of effecting a communication, by a rail road, from some point at Beaufort Harbor, in the immediate neighborhood of the waters of Beaufort Harbor, through or near Newbern ; thence through or near Trenton, in Jones county ; and thence, westwardly, by the most convenient and eligible route, through the central parts of North Carolina, or as near the same as may be deemed expedient, to the Tennessee line, or as far as may be practicable ; or from the point of commencement, at or near Beaufort Harbor, by the most eligible route, to intersect and unite with the rail road of the Cape Fear, Yadkin and Pedee Rail Road Company, at or near the town of Fayetteville ; the route, whichever may be preferred and adopted, to be determined by the company hereby incorporated, in a general meeting of the stockholders. That the said books shall be opened, in each place, at such time as the commissioners or deputy commissioners shall and may respectively appoint ; and shall be kept open, at each place, at least sixty days at a time ; and if it shall appear that more than the whole amount authorized by this act shall be subscribed, then it shall be the duty of the commissioners, or a majority of them, appointed to receive subscriptions at Trenton, 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 number of shares shall be reduced to twenty thousand. But if the whole of the shares shall not be subscribed for within one year from the time books shall be opened to receive subscriptions, then the books may be closed, or continued open, as a majority of the commissioners named to receive subscriptions at Trenton may judge most beneficial, until the whole number of shares shall be subscribed for. And the time and place of receiving such subscriptions, as aforesaid, shall be advertised in one or more newspapers published in the city of Raleigh, and in the towns of Newbern, Fayetteville and Salisbury.

2. When two 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 North Carolina Central Rail Road Company," and by that name may sue and be sued, plead and be impleaded, and shall possess and enjoy all the rights, privileges and immunities of a corporation, or body politic

in law ; and may make all such bylaws, rules and regulations, not inconsistent with the laws or constitution of this State, or of the United States, as shall be necessary for the well ordering and conducting the affairs of the company.

3. Upon any subscription of stock as aforesaid, there shall be paid at the time of subscribing, to the person or persons appointed by this act, or by virtue of this act, to take subscriptions, the sum of one dollar on every share subscribed ; and the residue thereof shall be paid in such instalments, and at such times as may be required by the president and directors of said company. The said commissioners, and deputy commissioners, shall forthwith, after the election of a president and directors of the company, pay over to the said president and directors, all moneys received by them ; and on failure thereof, the said president and directors may recover the amount due from them, or from any one or more of them, by motion, on ten days' previous notice, in the superior courts, or in the courts of pleas and quarter sessions, or before a justice of the county in which such commissioner, his executors or administrators may reside.

4. *Be it further enacted*, That 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, appointed to receive subscriptions at Trenton, 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 holding a majority of all the shares subscribed shall be present, either in person or by proxy ; and if a sufficient number to constitute a meeting, do not attend on that day, those who do attend shall have power to adjourn from time to time, until a meeting shall be formed.

5. *Be it further enacted*, That the subscribers, at their general meeting before directed, and the proprietors of the stock, at every annual meeting thereafter, shall elect a president and five directors, who shall continue in office, unless sooner removed, until the next annual meeting after their election, and until their successors shall be elected ; but the said president 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 three or more of the directors, or in the absence of the president, any three 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, or by the proprietors in general meeting.

6. *Be it further enacted*, That 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, and to begin at such point, and be prosecuted in such direction as the stockholders

shall direct, and may cause to be made and constructed all works whatsoever, which may be necessary and expedient in order to the completion of said rail road.

7. *Be it further enacted,* That the president and directors shall have power to make contracts with any person or persons, on behalf of the company, for making the said rail road, and performing all other works respecting the same, which they shall judge necessary and proper; to call, on an emergency, a general meeting of the proprietors of the stock, giving one month's notice thereof, in some newspaper published at the seat of government; to appoint a treasurer, clerk and such other officers, and transact all the business of the company during the intervals of the general meetings of the same.

8. *Be it further enacted,* That if any stockholder shall fail to pay the sum required of him by the president and directors, or a majority of them, within one month after the same shall have been advertised in some newspaper published at the seat of government, 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 place and time of sale in manner aforesaid; and after retaining the sum due, and all charges of the sale out of the proceeds thereof, to pay the surplus over to the former owner, or his legal representatives; and if the sale shall not produce the sum required to be advanced, with the incidental charges attending the same, then the president and directors may recover the balance, of the original proprietor, or his assignee, or his executor, or administrator, or either of them, by motion, on ten days' notice, before the court of pleas and quarter sessions of the county of which he is an inhabitant, or by warrant before a justice of said county; 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 proprietor.

9. *Be it further enacted,* That if the president and directors cannot agree with the owner of land through which it may be necessary to make the said rail road, as to the terms upon which the said rail road shall be opened through the same, then it shall be lawful for the said president and directors to file their petition in the court of pleas and quarter sessions of the county wherein the land lies, under the same rules and regulations as are now prescribed by law in laying off public roads; and upon the filing of said petition, the same proceedings shall be had as in cases of public roads; and when the jury shall have assessed the damages to be paid to the owners of the land through which the same shall be laid off, then it shall be lawful for the said president and directors, upon paying to the owner or owners of said land, his, her or their guardian, as the case may be, or into the office of the clerk of the court of pleas and quarter sessions of the county wherein the land lies, the sum or sums so assessed, to enter upon the land laid off, and construct the road thereon; to make all necessary excavations

and embankments, and all other structures necessary to the construction and preservation of said road ; and to hold the said land to their own use and benefit during their corporate existence ; and in all things to have the same power and authority over said land so laid off, during their existence as a corporation, as though they owned the fee simple therein : *Provided*, that nothing in this act contained, shall be so construed as to give power to said company to lay off said road through the yard, garden or burial ground attached, or appurtenant to the dwelling house on any plantation, through which it may be deemed necessary to lay off said road, without the consent of the owner thereof.

10. *Be it further enacted*, That whenever any wood, gravel, stone or earth may be wanted for the construction or repairing of said road, and the president and directors cannot agree with the owners of the lands adjacent, as to the terms on which they can procure the same, then it shall be lawful for the president and directors, by themselves or officers or agents, to enter upon any adjacent lands, not in a state of cultivation, and take therefrom all wood, stone, gravel or earth so needed as aforesaid : *Provided*, that they shall not, without the consent of the owner, cut down any fruit trees, or trees preserved in any lot or field for shade or ornament, or take any timber, gravel or stone constituting any part of a fence or building ; and where any gravel, stone, wood or earth shall be so taken as is provided for in this act, it shall and may be lawful for the owner to file his petition in the court of pleas and quarter sessions of the county wherein the land lies, from which said earth, stone, gravel or wood may have been taken, first giving ten days' notice to said president and directors, their officer or agent, of the filing of such petition, praying to have a jury summoned to go upon the land and assess the damages he, she, or they may have sustained thereby ; upon which it shall be the duty of the court to order a jury as in laying off public roads, which jury shall go upon the land, and, after being duly sworn to do equal justice to all parties in assessing the said damages, shall consider what damages the owners of said land shall have sustained, and, after assessing the same, shall return their proceedings to the said court ; and if the court shall approve thereof, the damages so assessed, together with all costs, shall be paid by the president and directors ; but if the said court shall not approve thereof, they shall order another jury to be summoned, who shall proceed in like manner to assess said damages, and return their proceedings to said court ; and upon approval thereof by said court, said damages and costs shall be paid by said president and directors ; and if said president and directors shall not pay the damages so assessed, and all costs, execution may issue against them therefor, as against other corporations : *Provided always*, that either party, not satisfied with the sentence or decree of the county court, may appeal therefrom to the superior court of law for said county.

11. *Be it further enacted*, That it shall be lawful for said company to purchase lands, from the proprietors, at any point on said road, not exceeding ten acres in any one tract, to be used by

them for all necessary purposes of said road, or to be disposed of by them when it shall be deemed proper.

12. *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 the said president and directors of said company, so to construct the said road across such established road or way, as not to impede the passage or transportation of persons or property along the same; or 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 said road or roads, from one part of his land to the other.

13. *Be it further enacted*, That the said president and directors, or a majority of them, shall have power to purchase, with the funds of said company, and place on the said rail road constructed by them under this act, all machines, wagons, vehicles, boats, carriages and teams of any description whatsoever, which they may deem necessary and proper for the purposes of transportation.

14. *And be it further enacted*, That all machines, wagons, vehicles, boats, carriages, and all other personal property, purchased by said company, or works constructed under the authority of this act, and all profits which shall accrue from the same, shall be vested in the respective share holders of the company forever, in proportion to their respective shares; and the said shares shall be deemed personal estate, and the property of the said company, and the shares therein, shall be exempt from any public charge or tax whatsoever, for the term of fifteen years; and thereafter the General Assembly may impose a tax not exceeding twentyfive cents per share per annum on the capital stock of the said company, whenever the net profits thereof shall exceed six per cent. per annum.

15. *Be it further enacted*, That so soon as ten miles of said 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 delivered at any place of deposit established by said company on said road; and it shall be the duty of the said company to transport the same in the order of time in which such produce and other commodities shall have been received, so as to do equal and impartial justice to all: *Provided*, the owner of produce or other commodities required to be transported by said company on said rail road, shall pay or tender to said company, at their toll gate or gates, the toll due upon such produce or 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, a toll gate or gates; and they shall be entitled to demand and receive a sum not exceeding the following rates, viz: on goods, produce, merchandise or property transported, not exceeding four cents a ton per mile for toll, and eight cents a ton per mile for transportation: and for the transportation of passengers, not exceeding six cents per mile for each passenger, until the net 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 the net profits; but when the net 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. per annum interest thereon as aforesaid, then the tolls 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, so as to make them sufficient, in their estimation, to yield a net profit equal to 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. The president and directors shall report to the stockholders the amount of tolls received during each year, the expenses and charges incurred during each year, and the net annual profit or loss on the capital expended; and 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 said road, without the license or permission of the president and directors of said company; and nothing herein contained shall be construed to prevent the said company from making a contract for the transportation of the mail, upon such terms as may be agreed on between said company and the agent of the United States.

16. *And be it further enacted*, That it shall be lawful for the company hereby created to receive donations and borrow money for the object of this act, and to pledge the property of the company for the payment of such loans, and to make and issue all proper evidences of such loans, and assurances for repayment thereof.

17. *And be it further enacted*, That it shall and may be lawful for the company hereby created so to construct all such bridges, as it may be necessary for them to erect for the purposes of their rail road, as to afford general accommodation to all travellers, and to demand, and receive, from the persons passing over and using such bridges a reasonable toll, which shall in no case exceed the highest rate of toll now allowed by law on any bridges of the State: *Provided however*, that no toll shall be demanded for using said bridge on account of either property or persons passing along the rail road, and paying tolls therefor; and if it shall be necessary for the company, in the selection of the route or construction of the road by them to be laid out and constructed, to connect the same with, or to use, any turnpike road, bridge or canal, made or erected by any company incorporated or authorized by any law of this State, it shall be lawful for the president and directors of the company hereby created, to contract with such corporations or persons for the right to use such roads, bridges or canal, or for the transfer of any of the rights and privileges of such corporations.

18. *And be it further enacted*, That it shall be lawful for said company to erect scales at their toll gate or gates, to weigh the

burthen of any wagon, carriage, machine, or other vehicle, used in transporting produce or other commodities along said road.

19. *And be it further enacted*, That an annual meeting of the proprietors of the stock of the said company shall be held at such time and at such place, in each and every year, as the stockholders, at their first general meeting, or at any subsequent general meeting may appoint; to constitute which, or any general meeting called by the president and directors, according to the provisions of this act, the presence of proprietors holding a majority of all the shares 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.

20. *And be it further enacted*, That in counting all votes of the said company, each member shall be allowed one vote for each share as far as ten shares, and one vote for every five shares above ten, by him held at the time in the stock of the said company.

21. *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.

22. *And be it further enacted*, That so soon as the said rail road shall be completed so far as the company may deem it expedient to extend the same, the president and directors of the said company, or a majority of them, shall semiannually declare and make such dividend, from the net profits from the tolls herein granted as they may deem advisable, to be divided among the proprietors of the stock of said company in proportion to their respective shares.

23. *And be it further enacted*, That after 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 convenient to said rail road, and which the said president and directors shall be required to transport as aforesaid, the toll for transportation being tendered, as a penalty for such failure or neglect, the company shall be liable to the party injured for such failure or neglect.

24. *And be it further enacted*, That if any toll gatherer, at any toll gate to be erected by the 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 two dollars, for every such offence, recoverable, with cost, 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 recovered against him or her, the said company shall be liable to pay the same.

25. *And be it further enacted*, That if the said president and directors shall not begin the said work within five years after the passage of this act, or shall not complete fifty miles thereof within

ten years thereafter, then the interest of said company in the said rail road and the tolls aforesaid, shall be forfeited and cease.

26. *Be it further enacted*, That 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 every share subscribed by him ; which certificate shall be transferable by him, subject however to all payments due thereon ; and such assignee having first caused the transfer or assignment to be entered into a book, to be kept by the company for that purpose, shall thenceforth become a member of 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 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 shall fail to pay the same.

27. *And be it further enacted*, That if the said 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 one acre at any one place, as may be necessary for a toll house, or a house to cover any stationary engine, or for any other necessary purpose, it shall and may be lawful for the president and directors to file a petition in the court of pleas and quarter sessions of the county, in which the land lies, against the proprietor of the land, setting forth the circumstances ; and upon its being made appear to the satisfaction of such court, that the said president and directors have caused the proprietor of such land to be notified ten days before court, the said court shall order the sheriff to summon a jury of good and lawful men, who, after having taken an oath (which oath the sheriff or his deputy is hereby authorized to administer) that they will assess the damages which such proprietor will sustain by reason of the condemnation of such land, shall assess the amount the petitioners ought to pay to such proprietor ; and the said jury in assessing such damages shall take into estimation the benefit resulting to said proprietor, from constructing said rail road or canal through or near the lands of said owner or proprietor, but only in extinguishment of damages ; and upon payment of the value found by the jury, upon any such proceeding, to the proprietor of the ground so condemned by the jury, or upon the payment thereof into court, when, for good cause shown, the court shall have ordered it, the said president and directors and their successors shall be and stand seized of the ground so condemned in fee simple.

28. If any person or persons shall wilfully, by any means whatever, injure, impair or destroy any part of the rail road, or canal or canals, constructed by authority of this act, or any of the necessary works, buildings, machines, wagons, vehicles or carriages, such person or persons shall be punished according to the laws which may be in force in this State at the time, for the protection of the public works or property of the State.

29. *And be it further enacted,* That the corporation shall exercise the corporate powers hereby granted for ninety years and no longer, without a renewal of the charter.

30. *And be it further enacted,* That full right and privilege is hereby reserved to the State, or to any company hereafter to be incorporated under the authority of this State, to connect with the road hereby provided for, any other rail road leading from the main route to any part or parts of this State : *Provided,* that in forming such connection no injury shall be done to the works of the company hereby incorporated.

31. *And be it further enacted,* That such compensation shall be made from time to time, to any of the officers, servants or agents of the company, as the proprietors in general meeting shall prescribe, or may authorize the president and directors to allow.

SEAT OF GOVERNMENT.

ORDINANCE,

For fixing the seat of government of North Carolina.

[Extract from the Journal of the House of Commons, Thursday, December 6, 1787.]

RESOLVED, That it be recommended to the people of this State, to authorize and direct their respective representatives, to be elected for the purpose of deliberating on the federal constitution, to fix on the place for holding the future meetings of the General Assembly, and the place of residence of the chief officers of the State ; which, when fixed, shall be considered the unalterable seat of government for this State.

By a Convention of delegates of the people of North Carolina, elected pursuant to a recommendation of the General Assembly of the said State, and assembled at the town of Hillsborough, on the twentyfirst day of July, in the year one thousand seven hundred and eightyeight.

AN ORDINANCE FOR ESTABLISHING A PLACE FOR HOLDING THE FUTURE MEETINGS OF THE GENERAL ASSEMBLY, AND THE PLACE OF RESIDENCE OF THE CHIEF OFFICERS OF THE STATE.

Whereas, in pursuance of a recommendation of the General Assembly, passed on the sixth day of December, one thousand seven hundred and eightyseven, this convention hath been elected by such

of the inhabitants of this State as are entitled to vote for representatives of the house of commons, for the purpose (together with that of deliberating and determining on the new constitution of government for the United States of America, proposed by the late federal convention) of fixing on the place for holding the future meetings of the General Assembly, and the place of residence of the chief officers of the State, which place when fixed, is to be considered the unalterable seat of government for this State : And whereas this convention, previous to their voting for any place for the above purposes, did pass a resolution, in the words following, viz. “ *Resolved*, that this convention will not fix the government at any one particular point, but that it shall be left at the discretion of the Assembly to ascertain the exact spot : *Provided always*, That it shall be within ten miles of the point or place determined on by this convention :” And whereas upon a ballot being taken, pursuant to a resolve of this convention, a majority of the said convention voted for the plantation whereon Isaac Hunter now resides, in the county of Wake, as the place at which, or within ten miles of which, a place for the above purposes should be fixed on by the General Assembly, agreeable to the above resolution :

Seat of government fixed.

Be it therefore ordained by this convention, on behalf of the people of the State of North Carolina, and it is hereby ordained by the authority of the same, That the said plantation whereon the said Isaac Hunter now resides, or such place as the General Assembly shall fix upon within ten miles of the said plantation, pursuant to the true intent and meaning of the above recited resolution of this convention, shall be the place for holding the future meetings of the General Assembly, and the place of residence of the chief officers of the State, and the unalterable seat of government of this State, except by the authority of the people in convention met for the said purpose : *Provided always*, that until convenient buildings can be erected on the said place for the said purposes, it shall be in the power of the General Assembly, from time to time, to appoint any other place or places for the meeting of the General Assembly, and for the residence of the chief officers of the State ; any thing in this ordinance to the contrary notwithstanding.

Ratified in Convention, the fourth day of August, }
Anno Domini 1783. }

SAMUEL JOHNSTON, *President*.

By Order,

J. HUNT, *Secretary*.

AN ACT TO CONFIRM THE PROCEEDINGS OF THE COMMISSIONERS APPOINTED UNDER AN ACT OF THE LAST GENERAL ASSEMBLY, ENTITLED, "AN ACT TO CARRY INTO EFFECT THE ORDINANCE OF THE CONVENTION HELD AT HILLSBOROUGH IN JULY, ONE THOUSAND SEVEN HUNDRED ANDEIGHTYEIGHT, ENTITLED, "AN ORDINANCE FOR ESTABLISHING A PLACE FOR HOLDING THE FUTURE MEETINGS OF THE GENERAL ASSEMBLY, AND THE PLACE OF RESIDENCE OF THE CHIEF OFFICERS OF THE STATE."

Whereas a majority of the commissioners appointed by the General Assembly under the above recited act, to wit: Frederick Hargett, Willie Jones, Joseph M'Dowell, Thomas Blount, William Johnston Dawson and James Martin, Esquires, in pursuance of the powers and authorities in them vested, did on the fourth Monday of April last, purchase of Joel Lane, Esq., one thousand acres of land for the use of the public, as appears by a deed from the said Joel Lane to Alexander Martin, Esq., governor for the time being, for the use of the State, bearing date the fifth day of April, one thousand seven hundred and ninetytwo, adjoining the tract whereon the said Joel Lane now lives, at Wake county court house, and have caused to be laid off thereon the plan of a city, containing four hundred acres of land, and comprehending, besides streets, two hundred and seventysix lots of one acre each; which plan, together with their proceedings at large, they have reported to this General Assembly:

1. *Be it therefore enacted, &c.*, That all and singular the proceedings of the said commissioners relative to the premises, be, and the same are hereby recognized, confirmed and ratified, fully and completely to all, intents and purposes. Proceedings of the commissioners ratified.

2. *And be it further enacted*, That the plan of a city so laid off, and reported to the present General Assembly by the commissioners aforesaid, shall be, and the same is hereby received, confirmed and ratified, by the name of the city of Raleigh; and the several streets represented in the plan, and the public square whereon the state house is to be built, shall be called and forever known by the names given to them respectively by the commissioners aforesaid; which plan, together with the deed for the land purchased, with a plat thereof annexed, shall be forthwith recorded in the secretary's office. The plan, &c. of the city ratified.

3. *And be it further enacted*, That the public square composed of lots number two hundred fortysix, two hundred fortyseven, two hundred sixtytwo and two hundred sixtythree, shall be called and known by the name of Caswell square: That the public square composed of lots number two hundred thirtyeight, two hundred thirtynine, two hundred fiftyfour and two hundred fiftyfive, shall be called and known by the name of Burke square: That the public square composed of lots number one hundred eighteen, one hundred nineteen, one hundred thirtyfour and one hundred thirtyfive, shall be called and known by the name of Nash square: And that the public square composed of lots number one hundred ten, one hundred eleven, one hundred twenty six and one Names of the public squares.

hundred twentyseven, shall be called and known by the name of Moore square.

When the state house is complete, the Assembly to meet there, &c.

4. *And be it further enacted*, That as soon as the state house, now building on Union square in the said city of Raleigh, is fit for the reception of the General Assembly, they shall adjourn to that place ; from which time all the chief officers of the State, viz. the treasurer, secretary of state and comptroller, shall hold their respective offices in the said city of Raleigh, which shall be thenceforward held, deemed and considered the permanent and unalterable seat of the government of the State of North Carolina, and the place of residence of the chief officers of the State, any law or laws to the contrary notwithstanding.

TURNPIKE COMPANIES.

BUNCOMBE TURNPIKE COMPANY.

AN ACT TO AUTHORIZE THE MAKING OF A TURNPIKE ROAD FROM THE SALUDA GAP, IN THE COUNTY OF BUNCOMBE, BY WAY OF SMITH'S, MURRAYVILLE, ASHEVILLE AND THE WARM SPRINGS, TO THE TENNESSEE LINE.

(Passed at the session of 1824.)

Commissioners.

1. *BE it enacted, &c.*, That James Patton, Samuel Chunn and George Swain, of Buncombe, be, and they are hereby appointed commissioners for receiving subscriptions to the amount of thirty thousand dollars, for the purpose of laying out and making a turnpike road from the Saluda Gap, in the county of Buncombe, by way of Smith's, Murrayville, Asheville and the Warm Springs, to the Tennessee line ; and the said commissioners, or a majority of them, shall prepare books, and cause the same to be opened, at such places, and under the direction of themselves, or such persons as they may appoint, on or before the first day of January next, and they shall continue open until the first day of March thereafter, unless the said capital sum shall be subscribed before that time ; at which time, or so soon as the sum of twenty thousand dollars shall be subscribed, the said books shall be returned at Asheville, to the commissioners appointed in Buncombe county, and at the same time there shall be a general meeting of the said subscribers, personally or by proxy, which meeting may continue from day to day until the business thereof shall be finished ; and if the sum of twenty thousand dollars or more, of the capital stock shall have been subscribed, the said subscribers, their heirs and assigns from the time of the first meeting, shall be, and they are hereby declared to be incorporated into a company, by and

Books to be opened for subscriptions.

A general meeting of subscribers.

under the name and style of "The Buncombe Turnpike Company," and may as such, sue and be sued, plead and be impleaded, defend and be defended, and have perpetual succession and a common seal, and all other corporate rights necessary for the objects of the company. Such of the said subscribers as may be present at the meeting aforesaid, or a majority of them, are hereby empowered and directed to elect a president and three directors, for conducting the business and concerns of the said company for one year, and until the next meeting of the stockholders. Every proprietor of stock, by writing under his or her hand, executed before some justice of the peace, may depute any other stockholder to vote for him or her at any general meeting, and the votes and acts of such proxy, shall be as effective, to all intents and purposes, as if the proprietor himself were personally present at the doing thereof.

Company incorporated.

Officers to be elected.

Proxies may be deputed.

2. *Be it enacted*, That if the said sum of thirty thousand dollars shall not be subscribed on or before the first day of March, the said commissioners shall again open books of subscription, and keep the same open till the first day of February thereafter, or until the aforesaid sum of thirty thousand dollars shall be subscribed as aforesaid; and if more than the capital stock hereby authorized shall be subscribed, the commissioners shall strike off from the subscription until the capital shall be reduced to thirty thousand dollars. And in striking off subscriptions, they shall begin and strike off one share for all subscriptions under the largest, and above one share, and until the sum shall be reduced to the capital aforesaid.

Provision for reopening the books.

If there be an excess of subscription it may be scaled.

3. *Be it enacted*, That the capital stock aforesaid, shall be divided into shares of fifty dollars each, and any person may subscribe for one or more shares, but shall not subscribe for part of a share. The public treasurer, shall subscribe, for and on behalf of the State, for one hundred shares, and the public treasurer shall have power to appoint a director of said company. The shares to be paid at such times and places, and by such instalments, as the president and directors of the company shall direct, they first giving public notice in the North and South Carolina Gazettes, for at least twenty days. If any person holding any share or shares in said company shall fail to pay for the same, in manner and at the time prescribed by the president and directors aforesaid, they may enforce the legal process, or they may expose to sale at the town of Asheville, the share or shares which such delinquent may hold in said company, by giving ten days' public notice as aforesaid. And if the said stock shall not sell for a sum sufficient to pay the instalments thereon, the sum deficient may be recovered of the person who owes the said stock, and the books of the company shall be good evidence of such sale and purchase of said shares.

The stock to be divided into shares of fifty dollars each. Public treasurer to subscribe for 100 shares. Shares to be paid for as directed.

Delinquent subscribers how to be proceeded against.

4. *Be it enacted*, That the president and directors or a majority of them, shall, on behalf of the corporation, have power and authority to agree with any person or persons for constructing or improving said road, or any part thereof, and shall obtain from the board of internal improvements such information and advice

Contracts to be made for improving said road.

- as will enable them to accomplish, in the most effectual and least expensive mode, the objects of this act, and to make all such contracts touching the same, as may be fit and expedient. And the said president and directors may also appoint a treasurer from among the stockholders, but not of their own body, who shall give bond and security for the faithful discharge of his duty, and duly accounting for all the money which may come into his hands as treasurer ; and he shall be allowed such compensation as the president and directors think him entitled to, not exceeding three per centum upon the disbursements. And no officer of the company shall have a vote in the passing or settlement of his own accounts. The said president and directors may appoint a clerk, and such managers and servants as they deem necessary. And when the road is completed, a toll gatherer, or toll gatherers, all, or any of whom, as well as the treasurer, they may remove at pleasure. And every president and director, before he acts as such, shall take an oath or affirmation for the due performance of his duty.
5. *Be it enacted*, That no general meeting shall be lawfully constituted, unless a majority of the shares is represented by the proprietors present ; and from and after the first general meeting, the succeeding one shall be held on the first Monday in October annually, in the town of Asheville ; at which time and place there shall be annually an election of president and directors. But if a sufficient number do not attend, the proprietors present may adjourn the meeting from day to day until the business of the company is finished : and to every annual meeting, it shall be the duty of the president and directors to make a distinct return and report of all their proceedings and accounts, which shall be carefully examined by the meeting, and if found just and accurate, shall receive a vote of approval ; and the like course shall be pursued in relation to the treasurer's accounts. And at every annual meeting, an equal dividend of all the net profits arising from the tolls hereinafter granted, shall be ordered and made to the proprietors of the said company, in proportion to their several shares, which have been duly paid for according to the terms of subscription, and the regulations prescribed for the payment of stock subscribed for, after leaving in the hands of the treasurer such sums as the meeting may think necessary to answer the contingent charges : *Provided always*, that under no circumstances, shall a greater dividend be made than twenty per centum on the amount of stock ; and if at any time the profits exceed that sum, the surplus shall be applied to the further improvement of the road, or a diminution of the tolls be made, as the president and directors may think most expedient ; and for the more effectually enforcing this provision, it shall be the duty of the president and directors to make a return annually to the General Assembly, of the amount of tolls received.
6. *Be it enacted*, That all meetings where a majority of the stockholders are required to be present, the number of votes to which each stockholder shall be entitled, except the State, shall
- Treasurer may be appointed.
- Clerk, &c.
- Oath of office.
- Majority of stock to be represented at every general meeting.
- President and directors to be elected at every annual meeting.
- Reports to be made.
- Dividends.
- Not to exceed twenty per cent.
- Number of votes to which stockholders are entitled.

be according to the number of shares he shall hold, in the proportions following, that is to say : for one share, and not more than two shares, one vote ; for every two shares above two, and not exceeding ten, one vote ; for every four shares above ten, and not exceeding thirty, one vote ; for every six shares above thirty, and not exceeding sixty, one vote ; for every eight shares above sixty, and not exceeding one hundred, one vote ; and for every ten shares above one hundred, one vote ; but no person, copartnership, or body politic, shall be entitled to a greater number than thirty votes.

7. *Be it enacted*, That as a compensation to the said stockholders for the trouble they will bestow on said undertaking, and the expenses they will disburse in constructing and keeping said road in repairs, and erecting gates and other necessary works, the profits of the said road are vested in them, their executors and assigns, as tenants in common, for the term of thirtysix years, to be computed from the time of giving the notice prescribed in this act, in proportion to their respective shares ; and the same shall be exempt from the payment of any tax whatsoever. And it shall and may be lawful for the president and directors, during the said term, to demand and receive, at some convenient toll gates to be by them erected, the following tolls, to wit : on every four wheeled carriage of pleasure, two dollars and fifty cents ; on every gig or sulky, one dollar ; on every six horse wagon, two dollars and fifty cents ; on every four horse road wagon, two dollars ; on every three or two ditto, one dollar and fifty cents : on every pedler's cart, one dollar and fifty cents ; on every road cart, fifty cents ; on each horse or mule without a rider, six and a quarter cents ; on every head of beef cattle, six and a quarter cents, and hogs and sheep, three cents on each ; on every animal designed for exhibition two dollars ; travelers on horses, twenty five cents each. And if any person or persons shall refuse to pay the tolls, at the time of offering to pass the places designated for their collection, and previous to passing the same, the toll gatherers, respectively, may refuse a passage to the person or persons so refusing ; and if any person or persons shall pass, or drive through any wheeled carriage or animals liable to toll, without paying the same, he or they may be proceeded against before any tribunal having cognizance thereof : *Provided*, that nothing contained in this act, shall render any citizen of the county of Buncombe liable to pay the above toll.

8. *Be it enacted*, That the said turnpike road hereby authorized shall be made by the president and directors, thirty feet in width, clear of obstructions, except in such places as shall require the whole width to be made by side cutting, where it shall be twenty feet ; and where it may be necessary to carry it around precipitous promontories, it shall be ten feet wide, clear of all drains and breastworks. The inclinations of the said road shall not exceed from one foot perpendicular to ten feet horizontal, and recourse shall be had to this steepness as seldom as it shall be possible to avoid it ; and so soon as the road shall be completed as aforesaid, the president and directors shall give public notice thereof.

Profits vested
in the company
for thirtysix
years.

Tolls.

Width of the
road, &c.

Road to be a public highway.

9. *Be it enacted*, That the said road, with the improvements which shall be made thereon in pursuance of this act, shall be forever thereafter taken and considered as a public highway, free for the passage of all persons and animals, and carriages of every description, on the payment of the tolls imposed by this act, and no higher toll or tax whatever for the use of the said road, shall at any time hereafter be imposed, without the consent of the legislature, except in the manner directed, in the seventh section of this act. And whereas, in tracing the line of said road, it may be necessary that certain portions of land shall be condemned for its completion :

Land through which the road passes may be purchased.

10. *Be it enacted*, That the president and directors may agree with the owners of any land, over which the said road is intended to pass, for the purchase thereof, and in case of disagreement, or if the owner shall be *feme covert*, under age, *non compos*, or out of the State, on application to any two justices of the county where the lands lie, the justices shall issue their warrant to the sheriff of said county to summon a jury of eighteen freeholders, to meet on the land to be valued on a day expressed in the said warrant, not less than ten nor more than twenty days thereafter ; and the sheriff on the receipt of the warrant, shall summon the jury, and when met, shall administer an oath or affirmation, provided twelve or more appear, to wit : that he will impartially value the land in question, and consider the damages the owner thereof may sustain in consequence of being divested of his property therein, and that he will not, in his valuation, spare any person through favor, nor injure any one through malice or hatred. And the inquisition so taken, shall be signed by the sheriff and twelve or more jurors, and returned to the clerk of the county court to be recorded. And in all such cases, the jury is hereby directed to describe the land valued, and such valuation shall be conclusive, and the president and directors shall pay the sum to the owner of the land valued, or his legal representatives, and if neither can be found in the State, or if found should refuse to receive the money, then to the clerk of the county court ; and on payment thereof, the said corporation shall be seised in fee of the land valued, as fully and absolutely as if it had been conveyed to them by the owner ; but no such condemnation shall extend to dwelling houses.

Also, for erecting toll houses, &c.

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

Stockholders may transfer their shares.

12. *Be it enacted*, That every stockholder may transfer his or her share or shares, by deed executed before two witnesses and registered, after proof of the execution in the company's books, and not otherwise except by will, which shall also be exhibited to the president and directors, and registered, before the person claiming under the will shall be entitled to draw any part of the

profits from the said tolls : *Provided*, that no transfer shall be made, except for one or more whole shares, and not for part of said shares. And that no share or shares shall at any time be sold, conveyed, transferred, or held in trust, for the use and benefit, or in the name of another, whereby the said president and directors, or stockholders, members of the said company, or any of them, shall or may be challenged, or made to answer any such trust ; but that every such person appearing as aforesaid to be a proprietor, shall, as to others of the company, be, to every intent and purpose, taken absolutely as such ; but between the trustee and the person for whose benefit such trust shall be executed, the common remedy may be pursued.

13. *Be it enacted*, That all hands liable to work on roads in the county of Buncombe, residing within two miles on either side of the road, from the Tennessee line to the top of the Saluda mountain, shall be liable to do six days work, in each and every year, on the said turnpike road, under the direction of the president and directors of said company, with the exception of the hands on the west side, from the mouth of Big Ivy, to the free bridge on French Broad river, for which distance the river shall be the line ; and the hands in the limits aforesaid, who shall not when warned as in other cases, attend and work on the said road, shall be liable to the same fines and penalties, and recoverable in the same manner, that fines are now collected from persons failing to work on public roads in this State : *Provided*, that the hands within the limits aforesaid, shall not be compelled to do more than two days' work in any one month.

Hands liable to work on this road.

14. *Be it enacted*, That so soon as any part of the said road, not less than ten miles in extent, shall be made agreeable, to the specifications contained in the eighth section of this act, it shall and may be lawful for the president and directors of the said company to erect a toll gate, and collect one seventh of the whole amount of tolls imposed by the seventh section of this act, and in like proportion for a greater extent of road : *Provided nevertheless*, that no toll gate shall be erected on said road within three miles south of Asheville, and north of Asheville (to a point north of the road leading from Asheville) to Waynesville, in Haywood county.

When ten miles of the road are made, tolls may be collected.

15. *Be it enacted*, That all persons and property subject to tolls, passing on that portion of said road between the free bridge and Saluda Gap, shall not be liable to pay more than one fifth of the tolls imposed by the seventh section of this act : *Provided always*, that it shall be competent for the General Assembly of North Carolina to repeal and make void this act, and to dissolve the corporation hereby created, whenever it shall appear to them that the object of this act has failed, and those to whose management the affairs of the corporation have been committed, have been guilty of mismanagement and abuse of their trust. And it shall also be competent for the said General Assembly to call to account, in such manner as it may prescribe, all and every person who may have acted in the character or capacity of president, director, treasurer of said corporation ; and in case any person called to ac-

Modification of the toll.

Act may be repealed if its object be not attained.

Officers may be called to account.

count shall be found guilty of mismanagement or abuse, in the discharge of the duty which has been conferred on him by the corporation, he, she or they shall be liable, in his or their individual capacity, in any court having jurisdiction thereof.

Former act repealed.

16. *Be it enacted*, That an act to authorize the making of a turnpike road from Asheville, by the Warm Springs, to the Tennessee line, and to incorporate a company for that purpose, passed at the last General Assembly, be and the same is hereby repealed.

AN ACT CONCERNING THE BUNCOMBE TURNPIKE ROAD.

(Passed at the session of 1829.)

Be 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 next election of a board of directors for the Buncombe Turnpike Company, it shall and may be lawful for the said company to elect a president and one director, who, together with the director appointed by the public treasurer, shall manage the concerns of the said corporation, and have the same power and authority now given by law to the president and directors of the same.

Company to elect a president and director.

2. *Be it further enacted*, That if at any general meeting of the said company hereafter to be held for the election of directors, it should so happen that a majority of shares shall not be represented in person, then and in that case the president and directors then in office shall remain therein, until a meeting of stockholders so constituted can be had.

In case a majority of stock shall not be represented in general meeting, president and directors then in office shall continue.

3. *Be it further enacted*, That nothing contained in the act of 1824, incorporating the Buncombe Turnpike Company, shall be so construed as to prevent the said corporation from altering and improving the direction of the said road.

Direction of road may be altered.

**UNIVERSITY OF NORTH
CAROLINA.**

AN ACT TO ESTABLISH A UNIVERSITY IN THIS STATE.

(Passed at the session of 1789.)

WHEREAS in all well regulated governments, it is the indispensable duty of every legislature to consult the happiness of a rising generation, and endeavor to fit them for an honorable discharge of the social duties of life, by paying the strictest attention to their education: And whereas a university, supported by permanent funds, and well endowed, would have the most direct tendency to answer the above purpose:

1. *Be it therefore enacted, &c.*, That Samuel Johnston, James Iredell, Charles Johnson, Hugh Williamson, Stephen Cabarrus, Richard Dobbs Spaight, William Blount, Benjamin Williams, John Sitgreaves, Frederick Harget, Robert W. Snead, Archibald Maclaine, Honorable Samuel Ashe, Robert Dixon, Benjamin Smith, Honorable Samuel Spencer, John Hay, James Hogg, Henry William Harrington, William Barry Grove, Reverend Samuel M'Corkle, Adlai Osborne, John Stokes, John Hamilton, Joseph Graham, Honorable John Williams, Thomas Person, Alfred Moore, Alexander Mebane, Joel Lane, Willie Jones, Benjamin Hawkins, John Haywood, senior, John Macon, William Richardson Davie, Joseph Dixon, William Lenoir, Joseph McDowall, James Holland, and William Porter, Esquires, shall 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 the University of North Carolina," and by that name shall have perpetual succession, and a common seal; and that they, the trustees and their successors, by the name aforesaid, or a majority of them, shall be able and capable in law to take, demand, receive and possess all moneys, goods and chattels that shall be given them, for the use of the said university, and the same apply according to the will of the donors, and by gift, purchase or devise to take, have, receive, possess, enjoy and retain to them and their successors forever, any lands, rents, tenements and hereditaments, of what kind, nature or quality soever the same may be, in special trust and confidence, that the same or the profits thereof, shall be applied to and for the use and purposes of establishing and endowing the said university.

Trustees nominated, and constituted a body politic.

2. *And be it enacted*, That the said trustees and their successors, or a majority of them, by the name aforesaid, shall be able and capable in law to bargain, sell, grant, demise, alien or dispose of, and convey and assure to the purchasers, any such lands, rents, tenements and hereditaments aforesaid, when the condition of the grant to them, or the will of the devisor, does not forbid it. And further that they, the said trustees and their successors forever, or a majority of them, shall be able and capable in law, by the name aforesaid, to sue and implead, be sued and impleaded, answer and be answered, in all courts of record whatsoever; and they shall have power to open and receive subscriptions, and in general, they shall and may do all such things as are usually done by bodies corporate and politic, or such as may be necessary for the promotion of learning and virtue.

Their authority.

3. *And be it further enacted*, That the said trustees, in order to carry the present act into effect, shall meet at Fayetteville, on the third Monday in the session of the next General Assembly, at which time they shall choose a president and secretary; and shall then fix the time of their next annual meeting; and at every annual meeting of the trustees, the members present, with the president and treasurer, (*a.*) shall be a quorum to do any business, or a majority of the members, without either of those officers, shall be a quorum; but at their first meeting as above directed there shall be

Meetings of the trustees, &c.

[*a.* The treasurer need not be present. See the act of 1798, *infra*, page 430.]

at least fifteen of the above trustees present, in order to proceed to business ; and the trustees at their annual meeting may appoint special meetings within the year : or in case unforeseen accidents shall render a meeting necessary, the secretary, by order of the president and any two of the trustees, signified to him in writing, shall by particular notice to each trustee, as well as by an advertisement in the State Gazette, convene the trustees at the time proposed by the president ; and the members thus convened shall be a quorum to do any business except the appointment of a president or professors in the university, or the disposal or appropriation of moneys ; but in case of the death or resignation of the president or any professor, the trustees thus convened may supply the place until the next annual meeting of the board of trustees, and no longer ; and the meeting at which the seat of the said university shall be fixed, shall be advertised in the Gazette of this State at least six months, and notice in manner aforesaid to each of the trustees of the object of the said meeting.

Special meeting.

Its power.

Appointment and duty of a treasurer, &c.

4. *And be it further enacted*, That the trustees shall elect and commission some person to be treasurer for the said university during the term of two years : which treasurer shall enter into bond with sufficient securities to the governor, for the time being, in the sum of five thousand pounds, conditioned for the faithful discharge of his office, and the trust reposed in him ; and that all moneys and chattels belonging to the said corporation that shall be in his hands at the expiration of his office, shall then be immediately paid and delivered into the hands of the succeeding treasurer : and every treasurer shall receive all moneys, donations, gifts, bequests and charities whatsoever, that may belong or accrue to the said university during his office, and at the expiration thereof shall account with the trustees for the same, and the same pay and deliver over to the succeeding treasurer ; and on his neglect or refusal to pay and deliver as aforesaid, the same method of recovery may be had against him, as is or may be provided for the recovery of moneys from sheriffs or other persons chargeable with public moneys : and the treasurer of the university shall cause annually to be published in the State Gazette, for the satisfaction of the subscribers and benefactors, a list of all moneys and other things by him received for the said university, either by subscription, legacy, donation or otherwise, under the penalty of one hundred pounds, to be recovered at the suit of the attorney general, in the name of the governor for the time being, in any court of record having cognizance thereof ; and the moneys arising from such penalties shall be appropriated to the use of the said university.

Subscriptions to be a permanent fund.

5. *Be it further enacted*, That the said trustees shall on no event or pretence whatsoever, appropriate or make use of the principal of the moneys by them received on subscription, but such principal shall be and remain as a permanent fund for the use and support of the said university forever.

Directions as to fixing on the place for the university.

6. *And be it further enacted*, That when the trustees shall deem the funds of the said university adequate to the purchase of a necessary quantity of land and erecting the proper buildings, they

shall direct a meeting of the said trustees for the purpose of fixing on and purchasing a healthy and convenient situation, which shall not be situate within five miles of the permanent seat of government, or any of the places of holding the courts of law or equity; which meeting shall be advertised at least six months in some gazette in this State, and at such superior courts as may happen within that time.

7. *Be it further enacted*, That the trustees shall have the power of appointing a president of the university, and such professors and tutors as to them shall appear necessary and proper, whom they may remove for misbehavior, inability or neglect of duty; and they shall have the power to make all such laws and regulations for the government of the university, and preservation of order and good morals therein, as are usually made in such seminaries, and as to them may appear necessary: *Provided*, the same are not contrary to the unalienable liberty of a citizen, or to the laws of the State. And the faculty of the university, that is to say, the president and professors, by and with the consent of the trustees, shall have the power of conferring all such degrees, or marks of literary distinction, as are usually conferred in colleges or universities.

Power of the trustees to appoint a president, professors, &c.

And to make regulations, &c.

To confer degrees.

8. *And be it further enacted*, That every person, who, within the term of five years, shall subscribe ten pounds towards this university, to be paid within five years, at five equal annual payments, shall be entitled to have one student educated at the university, free from any expense of tuition.

Benefit granted to subscribers.

9. *And be it further enacted*, That the public hall of the library and four of the colleges, shall be called severally by the names of one or another of the six persons, who shall within four years contribute the largest sums towards the funds of this university, the highest subscriber or donor having choice in the order of their respective donations. And a book shall be kept in the library of the university, in which shall be fairly entered the names and places of residence of every benefactor to this seminary, in order that posterity may be informed to whom they are indebted for the measure of learning and good morals that may prevail in the State.

Honor to be conferred on the six largest subscribers.

Names of subscribers to be preserved.

AN ACT FOR RAISING A FUND FOR ERECTING THE BUILDINGS AND FOR THE SUPPORT OF THE UNIVERSITY OF NORTH CAROLINA.

(Passed at the session of 1789.)

Whereas the General Assembly by their act, entitled, An act to establish a university in this State, passed on the eleventh day of December instant, have declared that a university shall be established and erected in this State, which shall be called and known by the name of the university of North Carolina: and whereas adequate funds will be found to be the means which will most effectually insure to the State the advantages to be hoped and expected from such an institution:

1. *Be it therefore enacted, &c.*, That a gift of all moneys due

Funds appropriated for erecting buildings for the university, &c.

and owing to the public of North Carolina, either for arrearages under the former or present government, up to the first day of January, one thousand seven hundred and eightythree, inclusive, (moneys or certificates due for confiscated property purchased excepted) shall be and is hereby declared to be fully and absolutely made, for the purpose of erecting the necessary buildings, employing professors and tutors, and carrying into complete effect the act before recited : and the treasurer is hereby directed and required to commence suits, and to prosecute all persons owing as above mentioned, and the moneys recovered in consequence thereof to pay into the hands of the trustees named in said act, or their successors, to be applied to the purposes aforesaid. *Provided*, that nothing herein contained shall be construed to prevent the treasurer or comptroller from settling with and collecting from the executors of Robert Lanier, deceased, late treasurer of Salisbury district, such sums in cash or certificates as may, on a final settlement of his accounts, be found to be due to the public ; nor shall it extend to prevent their collecting from the sheriffs of that district, their arrearages of taxes which became due under the present government, and which ought to have been paid into the office of the said Lanier, as treasurer aforesaid : *Provided*, they make such collection within the space of two years, after which time the arrearages of that district also shall be considered as being included in this gift.

Endowed with all escheat property.

2. *And be it enacted*, That all the property that has heretofore or shall hereafter escheat to the State, shall be and hereby is vested in the said trustees, for the use and benefit of the said university.

University lands, &c. exempt from taxes.

3. *And be it further enacted*, That the lands and other property belonging to the university aforesaid, shall be, and the same is hereby exempt from all kind of public taxation.

AN ACT MORE LIBERALLY TO ENDOW THE UNIVERSITY OF NORTH CAROLINA, AND TO SECURE THE TITLES OF CERTAIN INHABITANTS OF MECKLENBURG COUNTY, AND OTHER CITIZENS OF THIS STATE, TO CERTAIN LANDS HERETOFORE PURCHASED FROM HENRY EUSTACE McCULLOH.

(Passed at the session of 1794.)

Whereas the trustees of the university of North Carolina have, with a laudable zeal for the promotion of literature, erected a building for the use of the institution entrusted to them, and are at this time prepared to commence the exercises of the University, but have not funds to proceed in the liberal manner which the honor and interest of the public demand ; and as the remnant of confiscated property unsold by the commissioners appointed for that purpose, might contribute to furnish them with the means of making a permanent establishment for the cultivation of science :

Confiscated property unsold vested in the trustees of the university.

1. *Be it enacted, &c.* That all lands not heretofore sold, which under any of the laws commonly called confiscation laws, have been forfeited or confiscated to the use of the State, be and the

same are hereby granted to and vested in the trustees of the university of North Carolina, and their successors forever, in trust, for the use and benefit of the said university.

And whereas a number of the inhabitants of Mecklenburg county, and other citizens of this State, purchased lands from Henry Eustace McCulloh, taking the bonds of the said Henry Eustace McCulloh to make a title or titles to the said purchased premises, which lands have become confiscated to the State, and the said purchasers cannot procure titles to the same : And whereas also other persons who had purchased lands from the said Henry Eustace McCulloh, executed mortgages to him for the said purchased premises, previous to the fourth day of July, in the year one thousand seven hundred and seventysix ; and it is proper that such persons should have some easy method of completing their titles, and removing the incumbrances aforesaid :

2. *Be it enacted*, That so much and such part of the said confiscated lands, as may have been *bona fide* purchased or mortgaged as aforesaid, are granted to, and vested in the trustees of the university of North Carolina, and their successors, not only for the use and purpose above mentioned in this act, but on the express trust that the said trustees and their successors shall take and use all proper ways and means, both in law and equity, to convey and assure to the equitable owners or claimants of such lands, a good and sufficient title in law to the lands so purchased or mortgaged as aforesaid ; such equitable owners or claimants paying, or securing to be paid to the said trustees, or their successors, such sum or sums of money as may be justly and equitably due on such purchase or mortgage. *Provided*, that the interest to be required from such claimants, shall in no instance exceed the principal, nor shall interest in any case be calculated during the war.

Confiscated lands, mortgaged, &c. vested in said trustees, &c.

What interest to be paid by mortgagor.

And to the end that the real value and amount of the said endowment may be known :

3. *Be it enacted*, That the said trustees shall keep an accurate account of the proceeds of the sales and payments made for said lands, with their expenses and disbursements, together with a statement of all other moneys entrusted to their management, either by the public or individuals, and lay the same annually before the General Assembly.

Trustees to keep and render account of proceeds, &c.

4. *And be it further enacted*, That the proceeds of all sales which shall be made, and the amount of all payments received under this act, shall be considered as a fund, the interest whereof shall be applied to the uses and purposes expressed in this act, for the term of ten years, at the expiration of which time, the principal thereof, after deducting the charges of collection, shall be subject to the direction and disposition of the General Assembly. *Provided nevertheless*, that whenever the principal collected and intended by this act to be loaned as aforesaid, shall exceed ten thousand pounds, the surplus, if in cash, shall immediately be paid into the treasury of this State, and if in bonds, it shall be the duty of the said trustees to transfer them without delay to the public treasurer for the time being, for the use of the State.

How to be appropriated.

AN ACT TO AMEND THE ACT ESTABLISHING AN UNIVERSITY IN THIS STATE.

(Passed at the session of 1793.)

Whereas the trustees of the university of North Carolina, have prayed this General Assembly to amend their act of incorporation, so as to dispense with the presence of the treasurer at their meetings, and to ensure a more punctual attendance of the trustees :

Presence of the treasurer of the board not necessary.

1. *Be it enacted, &c.*, That at the meetings of the trustees of the said university, hereafter to be held, the presence of the treasurer of the board shall in no case be necessary to constitute a board for business.

AN ACT TO AMEND AND REPEAL IN PART, AN ACT PASSED IN THE YEAR ONE THOUSAND SEVEN HUNDRED AND EIGHTYNINE, ENTITLED "AN ACT TO ESTABLISH AN UNIVERSITY IN THIS STATE."

(Passed at the session of 1804.)

Preamble.

Whereas by the sixth section of the before recited act, the board of trustees of the university are vested with the power of filling up any vacancy or vacancies which may happen in that body by the death, refusal to act, resignation or removal out of the State, of any of the trustees for the time being, or to appoint new trustees when a majority or any fifteen members of the board, may think proper. And whereas it would tend to render the institution more conformable to the wishes of the people, if the power of filling up such vacancy or vacancies, and making such new appointment or appointments, should be vested in the legislature :

Sixth section repealed.

1. *Be it therefore enacted, &c.*, That the said sixth section of the before recited act, be and the same is hereby repealed and made void.

When vacancies happen, General Assembly to supply them.

2. *And be it further enacted,* That whenever any vacancy or vacancies as aforesaid shall happen, that the General Assembly shall proceed to elect a proper and suitable person or persons to fill the same by joint ballot of both houses, and it shall be the duty of the secretary of the board of trustees to make known to the General Assembly at each annual session such vacancies as may happen during their recess.

The General Assembly may also appoint additional trustees.

3. *Be it further enacted,* That the General Assembly shall whenever they deem it expedient for the interest of the said institution, appoint as aforesaid any additional trustees which they shall think proper. *Provided always,* that the number of trustees shall at no time exceed eight in each superior court district, any law to the contrary notwithstanding.

When the law shall take effect.

4. *Be it further enacted,* That this law shall take effect from and after the ratification thereof.

AN ACT APPOINTING THE GOVERNOR FOR THE TIME BEING PRESIDENT OF THE BOARD OF TRUSTEES OF THE UNIVERSITY OF NORTH CAROLINA.

(Passed at the session of 1805.)

1. *Be it enacted, &c.*, That the governor of the State for the time being, shall be and he is hereby declared to be president of the board of trustees of the university of North Carolina, and as such shall preside at all meetings of said board : *Provided always*, that if by reason of indisposition or other good cause, the governor shall be unable to attend any of the meetings of the said board he may, by some instrument of writing signed with his proper hand, appoint some other person, being a trustee, to act as president for the time being, who shall accordingly preside as such in the absence of the governor.

The governor to be president of the board of trustees of the university.

2. *And be it further enacted*, That in case any member of the board of trustees of the said university shall fail to give his personal attendance at any of the meetings of said board for the term of two years, the said board of trustees shall be, and are hereby declared to be vested with power and authority, if they deem the same expedient, to consider the seat of such member as vacated, and cause the same to be reported to the General Assembly ; whereupon the vacancy or vacancies so occasioned, shall be filled up by joint ballot of both houses.

How a trustee's seat may be vacated.

AN ACT TO AUTHORIZE THE TRUSTEES OF THE UNIVERSITY OF NORTH CAROLINA, IN CERTAIN CASES, TO APPOINT A PRESIDENT OF THE BOARD OF TRUSTEES AFORESAID, PRO TEMPORE.

(Passed at the session of 1807.)

Whereas, by the laws now in force, fifteen trustees are necessary to constitute a board, in the absence of the president, whereby the interests of the institution may suffer from the want of a body legally authorized to transact its business :

Be it therefore enacted, &c., That from and after the passing of this act, any number of the trustees, not less than seven, at any of the annual meetings of the trustees of the university of North Carolina, shall be and constitute a quorum, and be competent to appoint a president *pro tempore*, in case of the death, resignation, absence or indisposition of the president ; and when a president *pro tempore* is so appointed, they shall possess and exercise all and every the powers and authorities invested in the trustees of the university of North Carolina by the several acts of the General Assembly now in force or which may hereafter be in force in this State.

Seven trustees a quorum, and may appoint a president *pro tempore*.

AN ACT TO CONSOLIDATE INTO ONE, THE SEVERAL ACTS OF THE GENERAL ASSEMBLY OF THIS STATE RELATIVE TO THE APPOINTMENT OF TRUSTEES OF THE UNIVERSITY, FOR THE GOVERNMENT THEREOF, AND FOR OTHER PURPOSES.

(Passed at the session of 1821.)

Trustees.

Be it enacted, &c., That John Haywood, Benjamin Smith, William Polk, Henry Potter, Archibald D. Murphey, Duncan Cameron, Joseph Caldwell, Thomas Winns, Edward Jones, James Webb, Henry Seawell, Calvin Jones, John D. Hawkins, Robert H. Jones, Jeremiah Slade, Joseph H. Bryan, Robert Williams, William Gaston, Thomas Brown, Francis Locke, Montfort Stokes, Thomas Love, Archibald M'Bride, Atlas Jones, Lewis Williams, William M'Pheeters, Frederick Nash, Thomas Ruffin, James W. Clark, John Stanly, Bartlett Yancy, Leonard Henderson, John Branch, William Miller, Simmons J. Baker, George E. Badger, Kemp Plummer, Thomas Bennehan, Willie P. Mangum, James Mebane, John Witherspoon, John B. Baker, James Iredell, William Martin, Joseph B. Skinner, James C. Johnston, Enoch Sawyer, Alfred Moore, John D. Toomer, John Owen, Gabriel Holmes, Romulus M. Saunders, Lewis, D. Schweinitz and Thomas P. Devereux, are hereby declared to be trustees of the university of this State, and the successors of the trustees appointed by an act of the General Assembly of this State, passed in the year one thousand seven hundred and eighty-nine, entitled "An act to establish a university in this State," and that the appointment of the trustees aforesaid is hereby confirmed, and they are declared to have all the power and authority heretofore conferred by law on the trustees of the said institution.

Board to consist of sixty-five trustees.

2. *Be it enacted*, That the board of trustees of the university shall consist of sixty-five members, all of whom shall be resident citizens of this State.

Trustees to be elected by joint ballot.

3. *Be it enacted*, That the additional number of trustees hereby authorized shall be elected by joint ballot of both houses of the General Assembly; and that, hereafter, when any vacancy or vacancies shall happen in the said board, by death, resignation, refusal to act, removal out of this State or other cause, it shall be the duty of the president of the board to communicate, or cause to be communicated by the secretary, to the General Assembly, the said vacancy or vacancies, and thereupon, they shall elect, by joint ballot of both houses, a suitable person or persons to fill the same.

Vacancies to be filled by the General Assembly.

Board to remove a trustee for improper conduct.

4. *Be it enacted*, That the board of trustees shall have power to vacate the appointment and remove a trustee for improper conduct, stating the cause of such removal on their journal: *Provided*, the same shall be done at an annual meeting of the board, and that there shall be present at the doing thereof at least twenty of the members of the board.

Governor to be president of the board of trustees.

5. *Be it enacted*, That the governor of this State for the time being shall be, and he is hereby declared to be president of the

board of trustees of the university, and as such, shall preside at all the meetings of said board at which he may be present ; and if, by indisposition or other cause, the governor shall be absent from any meeting of the board, he may appoint, in writing, some other person, being a trustee, to act as president for the time being, and who shall preside accordingly : and if, at any time, the governor shall be absent at the meeting of the board, and shall not have appointed, as aforesaid, a president, it shall be lawful for the board to appoint a president for the time being, who shall preside as such.

6. *Be it enacted*, That there shall be an annual meeting of the board of trustees during the session of the General Assembly, in the city of Raleigh, and at such time and place as the president of the board may appoint ; and at any of the annual meetings of the board, any number of trustees, not less than seven, shall constitute a quorum, and be competent to exercise full power and authority to do the business of the board ; and the said board, or the president thereof, shall have power to appoint special meetings of the trustees at such time and place as in their opinion the interest of the institution may require ; but no special meeting shall have power to revoke or alter any order, resolution or vote of an annual meeting.

Board of trustees to hold a meeting during the session of the General Assembly.

7. *Be it enacted*, That in case the office of secretary or treasurer of the board of trustees of the university shall be vacant from any cause whatever, in the recess of the board, the president shall appoint a suitable person to fill the same, until the annual meeting of the board of trustees, at which time the said board shall elect a proper person to fill the said vacancy.

President to appoint secretary or treasurer during the recess of the board.

8. *Be it enacted*, That the second section of an act passed in the year one thousand eight hundred and five, entitled "An act appointing the governor for the time being president of the board of trustees of the university," and that so much of the several acts of the General Assembly of this State, as is inconsistent with this act, be, and the same is hereby repealed ; and that this act shall be in force from and after the ratification thereof.

Repealing clause.

AN ACT TO AMEND AN ACT, PASSED IN THE YEAR EIGHTEEN HUNDRED AND TWENTYONE, ENTITLED "AN ACT TO CONSOLIDATE INTO ONE, THE SEVERAL ACTS OF THE GENERAL ASSEMBLY OF THIS STATE, RELATIVE TO THE APPOINTMENT OF TRUSTEES OF THE UNIVERSITY, FOR THE GOVERNMENT THEREOF, AND FOR OTHER PURPOSES."

(Passed at the session of 1824.)

1. *Be it enacted, &c.*, That the board of trustees, at their annual meeting, may, by resolution, vote or ordinance, from time to time, as to them shall seem meet, limit, control and restrain the business to be transacted, and the power to be possessed and exercised by special meetings of the board, called according to the sixth section of the above recited act ; and the powers of such

Trustees, at an annual meeting, may limit the business of special meetings.

special meetings shall be limited, controlled and restrained accordingly. And every order, vote, resolution, or other acts, done, made or adopted by any special meeting, contrary to any order, resolution, vote or ordinance of the board, at an annual meeting, shall be absolutely, to all intents and purposes null and void.

2. *Be it enacted*, That this act be in force from and immediately after the ratification thereof.

A P P E N D I X .



THE
FIRST CHARTER

GRANTED

BY KING CHARLES THE SECOND,

TO THE

LORDS PROPRIETORS OF CAROLINA.

CHARLES the Second, by the grace of God, king of England, Scotland, France and Ireland, Defender of the Faith, &c., To all to whom these present shall come : Greeting :

1st. Whereas our right trusty, and right well beloved cousins and counsellors, Edward Earl of Clarendon, our high chancellor of England, and George Duke of Albemarle, master of our horse and captain general of all our forces, our right trusty and well beloved William Lord Craven, John Lord Berkley, our right trusty and well beloved counsellor, Anthony Lord Ashley, chancellor of our exchequer, Sir George Carteret, knight and baronet, vice chamberlain of our household, and our trusty and well beloved Sir William Berkley, knight, and Sir John Colleton, knight and baronet, being excited with a laudable and pious zeal for the propagation of the Christian faith, and the enlargement of our empire and dominions, have humbly besought leave of us, by their industry and charge, to transport and make an ample colony of our subjects, natives of our kingdom of England, and elsewhere within our dominions, unto a certain country hereafter described, in the parts of America not yet cultivated or planted, and only inhabited by some barbarous people, who have no knowledge of Almighty God.

2d. And whereas the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, have humbly besought us to give, grant and confirm unto them and their heirs, the said country, with priviledges and jurisdictions requisite for the good government and safety thereof : Know ye, therefore, that we, favouring the pious and noble purpose of the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, of our special grace, certain knowledge and meer motion, have given, granted and confirmed, and

by this our present charter, for us, our heirs and successors, do give, grant and confirm unto the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, their heirs and assigns, all that territory or tract of ground, scituate, lying and being within our dominions of America, extending from the north end of the island called Lucke island, which lieth in the southern Virginia seas, and within six and thirty degrees of the northern latitude, and to the west as far as the south seas, and so southerly as far as the river St Matthias, which bordereth upon the coast of Florida, and within one and thirty degrees of northern latitude, and so west in a direct line as far as the south seas aforesaid; together with all and singular ports, harbours, bays, rivers, isles and islets belonging to the country aforesaid; and also all the soil, lands, fields, woods, mountains, fields, lakes, rivers, bays and islets, scituate or being within the bounds or limits aforesaid, with the fishing of all sorts of fish, whales, sturgeons, and all other royal fishes in the sea, bays, islets and rivers within the premises, and the fish therein taken; and moreover all veins, mines, quarries, as well discovered as not discovered, of gold, silver, gems, precious stones, and all other whatsoever, be it of stones, metals, or any other thing whatsoever, found or to be found within the countries, isles and limits aforesaid.

3d. And furthermore, the patronage and advowsons of all the churches and chappels, which as Christian religion shall increase within the country, isles, islets and limits aforesaid, shall happen hereafter to be erected, together with license and power to build and found churches, chappels and oratories, in convenient and fit places, within the said bounds and limits, and to cause them to be dedicated and consecrated according to the ecclesiastical laws of our kingdom of England, together with all and singular the like, and as ample rights, jurisdictions, priviledges, prerogatives, royalties, liberties, immunities and franchises of what kind soever, within the countries, isles, islets and limits aforesaid.

4th. To have, use, exercise and enjoy, and in as ample manner as any bishop of Durham in our kingdom of England, ever heretofore have held, used or enjoyed, or of right ought or could have, use, or enjoy. And them, the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, their heirs and assigns, we do by these presents, for us, our heirs and successors, make, create and constitute the true and absolute Lords Proprietors of the country aforesaid, and of all other the premises; saving always the faith, allegiance and sovereign dominion due to us, our heirs and successors, for the same, and saving also the right, title and interest of all and every our subjects of the English nation, which are now planted within the limits and bounds aforesaid (if any be). To have, hold, possess and enjoy the said country, isles, islets, and all and singular other the premises, to them the said Edward

Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, Sir John Colleton, their heirs and assigns forever, to be holden of us, our heirs and successors, as of our manner of East Greenwich in our county of Kent, in free and common soccage, and not in capite, or by knight service; yielding and paying yearly to us, our heirs and successors, for the same, the yearly rent of twenty marks of lawful money of England, at the feast of All Saints, yearly forever, the first payment thereof to begin and to be made on the feast of All Saints, which shall be in the year of our Lord one thousand six hundred and sixtyfive, and also the fourth part of all gold or silver ore, which, within the limits aforesaid, shall from time to time happen to be found.

5th. And that the country, thus by us granted and described, may be dignified by us with as large titles and priviledges as any other part of our dominions and territories in that region, Know ye, that we of our further grace, certain knowledge, and meer motion, have thought fit to erect the same tract of ground, county, and island, into a province, and out of the fulness of our royal power and prerogative, we do, for us, our heirs and successors, erect, incorporate and ordain the same into a province, and call it the Province of Carolina, and so from henceforth will have it called; and forasmuch as we have hereby made and ordained the aforesaid Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, their heirs and assigns, the true lords and proprietors of all the province aforesaid; Know ye, therefore moreover, that we, reposing especial trust and confidence in their fidelity, wisdom, justice and provident circumspection, for us, our heirs and successors, do grant full and absolute power, by virtue of these presents, to them the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, and their heirs, for the good and happy government of the said province, to ordain, make, enact, and under their seals to publish any laws whatsoever, either appertaining to the publick state of the said province, or to the private utility of particular persons, according to their best discretion, of and with the advice, assent and approbation of the freemen of the said province, or of the greater part of them, or of their delegates or deputies, whom for enacting of the said laws, when and as often as need shall require, we will that the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, and their heirs, shall from time to time assemble in such manner and form as to them shall seem best, and the same laws duly to execute upon all people within the said province and limits thereof, for the time being, or which shall be constituted under the power and government of them or any of them, either sailing towards the said province of

Carolina, or returning from thence towards England, or any other of our, or foreign dominions, by imposition of penalties, imprisonment, or any other punishment; yea, if it shall be needfull, and the quality of the offence requires it, by taking away member and life, either by them, the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, and their heirs, or by them or their deputies, lieutenants, judges, justices, magistrates, officers and members to be ordained or appointed according to the tenor and true intention of these presents; and likewise to appoint and establish any judges or justices, magistrates or officers whatsoever, within the said province, at sea or land, in such manner and form as unto the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton and their heirs shall seem most convenient; also, to remit, release, pardon and abolish (whether before judgment or after) all crimes and offences whatsoever, against the said laws, and to do all and every other thing and things, which unto the compleat establishment of justice unto courts, sessions, and forms of judicature and manners of proceedings therein do belong, although in these presents express mention be not made thereof; and by judges and by him or them delegated, to award process, hold pleas, and determine in all the said courts, and places of judicature, all actions, suits and causes whatsoever, as well criminal or civil, real, mixt, personal, or of any other kind or nature whatsoever; which laws, so as aforesaid to be published, our pleasure is, and we do require, enjoin and command, shall be absolute, firm and available in law, and that all the liege people of us, our heirs and successors, within the said province of Carolina, do observe and keep the same inviolably in those parts, so far as they concern them, under the pains and penalties therein expressed, or to be expressed: *Provided nevertheless*, that the said laws be consonant to reason, and as near as may be conveniently, agreeable to the laws and customs of this our kingdom of England.

6th. And because such assemblies of freeholders cannot be so conveniently called, as there may be occasion to require the same, we do, therefore, by these presents, give and grant unto the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, their heirs and assigns, by themselves or their magistrates, in that behalf lawfully authorized, full power and authority, from time to time to make and ordain fit and wholesome orders and ordinances, within the province aforesaid, to be kept and observed as well for the keeping of the peace, as for the better government of the people there abiding, and to publish the same to all to whom it may concern; which ordinances, we do by these presents streightly charge and command to be inviolably observed within the said province, under the penalties therein expressed, so as such ordi-

nances be reasonable, and not repugnant or contrary, but as near as may be, agreeable to the laws and statutes of this our kingdom of England, and so as the same ordinances do not extend to the binding, charging, or taking away of the right or interest of any person or persons, in their freehold, goods or chattels whatsoever.

7th. And to the end the said province may be the more happily increased, by the multitude of people resorting thither, and may likewise be the more strongly defended from the incursions of salvages and other enemies, pirates and robbers, therefore we, for us, our heirs and successors, do give and grant by these presents, power, license and liberty unto all the liege people of us, our heirs and successors in our kingdom of England or elsewhere, within any other our dominions, islands, colonies or plantations, (excepting those who shall be especially forbidden,) to transport themselves and families unto the said province, with convenient shipping and fitting provisions, and there to settle themselves, dwell and inhabit, any law, statute, act, ordinance, or other thing to the contrary in any wise notwithstanding. And we will also, and of our more special grace, for us, our heirs and successors, do streightly enjoin, ordain, constitute and command, that the said province of Carolina, shall be of our allegiance, and that all and singular the subjects and liege people of us, our heirs and successors, transported or to be transported into the said province, and the children of them and of such as shall descend from them, there born or hereafter to be born, be and shall be denizens and lieges of us, our heirs and successors of this our kingdom of England, and be in all things held, treated, and reputed as the liege faithful people of us, our heirs and successors, born within this our said kingdom, or any other of our dominions, and may inherit or otherwise purchase and receive, take, hold, buy and possess any lands, tenements or hereditaments within the same places, and them may occupy, possess and enjoy, give, sell, aliene and bequeathe; as likewise all liberties, franchises and priviledges of this our kingdom of England, and of other our dominions aforesaid, and may freely and quietly have, possess and enjoy, as our liege people born within the same, without the least molestation, vexation, trouble or grievance of us, our heirs and successors, any statute, act, ordinance, or provision to the contrary notwithstanding.

8th. And furthermore, that our subjects of this our said kingdom of England, and other our dominions, may be the rather encouraged to undertake this expedition with ready and chearful minds, know ye, that we of our special grace, certain knowledge and meer motion, do give and grant by virtue of these presents, as well to the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, and their heirs, as unto all others as shall from time to time repair unto the said province, with a purpose to inhabit there, or to trade with the natives of the said province, full liberty and license to lade and freight in any port whatsoever, of us, our heirs and successors, and into the said

province of Carolina, by them, their servants or assigns, to transport all and singular their goods, wares and merchandises, as likewise all sorts of grain whatsoever, and any other things whatsoever, necessary for the food and clothing, not prohibited by the laws and statutes of our kingdoms and dominions, to be carried out of the same, without any let or molestation of us, our heirs and successors, or of any other of our officers, or ministers whatsoever, saving also to us, our heirs and successors, the customs and other duties and payments, due for the said wares and merchandises, according to the several rates of the places from whence the same shall be transported. We will also, and by these presents, for us, our heirs and successors, do give and grant license by this our charter, unto the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, their heirs and assigns, and to all the inhabitants and dwellers in the province aforesaid, both present and to come, full power and absolute authority to import or unlade by themselves or their servants, factors or assigns, all merchandises and goods whatsoever, that shall arise of the fruits and commodities of the said province, either by land or by sea, into any of the ports of us, our heirs and successors, in our kingdom of England, Scotland or Ireland, or otherwise to dispose of the said goods, in the said ports; and if need be, within one year next after the unlading, to lade the said merchandises and goods again into the same or other ships, and to export the same into any other countries either of our dominions, or foreign, being in amity with us, our heirs and successors, so as they pay such customs, subsidies, and other duties for the same, to us, our heirs and successors, as the rest of our subjects of this our kingdom, for the time being, shall be bound to pay, beyond which we will not, that the inhabitants of the said province of Carolina, shall be any ways charged.

9th. *Provided nevertheless*, and our will and pleasure is, and we have further for the consideration aforesaid, of our more especial grace, certain knowledge, and meer motion, given and granted, and by these presents, for us, our heirs and successors, do give and grant unto the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley and Sir John Colleton, their heirs and assigns, full and free license, liberty and authority, at any time or times, from and after the feast of St Michael the archangel, which shall be in the year of our Lord Christ, one thousand six hundred sixty and seven, as well to import, and bring into any of our dominions from the said province of Carolina, or any part thereof, the several goods and commodities, hereinafter mentioned, that is to say, silks, wines, currants, raisins, capers, wax, almonds, oyl and olives, without paying or answering to us, our heirs or successors, any custom, import, or other duty, for and in respect thereof, for and during the term and space of seven years, to commence and be accounted, from and

after the first importation of four tons of any the said goods, in any one bottom, ship or vessel from the said province, into any of our dominions, as also to export and carry out of any of our dominions, into the said province of Carolina, custom free, all sorts of tools which shall be usefull or necessary for the planters there, in the accommodation and improvement of the premises, any thing before, in these presents contained, or any law, act, statute, prohibition or other matter, or any thing heretofore had, made, enacted or provided, or hereafter to be had, made, enacted or provided, to the contrary, in any wise notwithstanding.

10th. And furthermore, of our own ample and especial grace, certain knowledge, and meer motion, we do for us, our heirs and successors, grant unto the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley and Sir John Colleton, their heirs and assigns, full and absolute power and authority, to make, erect and constitute, within the said province of Carolina, and the isles and islets aforesaid, such and so many seaports, harbours, creeks and other places, for discharge and unloading of goods and merchandises, out of ships, boats and other vessels, and for lading of them, in such and so many places, and with such jurisdiction, priviledges and franchises unto the said ports belonging, as to them shall seem most expedient, and that all and singular the ships, boats and other vessels, which shall come for merchandises and trade into the said province, or shall depart out of the same, shall be laden and unladen at such ports only, as shall be erected and constituted by the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, their heirs and assigns, and not elsewhere, any use, custom or any other thing to the contrary, in any wise notwithstanding.

11th. And we do furthermore will, appoint and ordain, and by these presents for us, our heirs and successors, do grant unto the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley and Sir John Colleton, their heirs and assigns, that they the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley and Sir John Colleton, their heirs and assigns, may from time to time forever, have and enjoy, the customs and subsidies in the ports, harbors, creeks and other places within the province aforesaid, payable for goods, merchandise and wares, there laded or to be laded, or unladed, the said customs to be reasonably assessed, upon any occasion, by themselves, and by and with the consent of the free people there, or the greater part of them as aforesaid; to whom we give power by these presents, for us, our heirs and successors, upon just cause and in a due proportion, to assess and impose the same.

12th. And further, of our special grace, certain knowledge, and meer motion, we have given, granted and confirmed, and by these

presents, for us, our heirs and successors, do give, grant and confirm unto the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, their heirs and assigns, full and absolute license, power and authority, that the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, Sir John Colleton, their heirs and assigns, from time to time, hereafter, forever, at his and their will and pleasure, may assign, alien, grant, demise or enfeof the premises, or any part or parcels thereof, to him or them that shall be willing to purchase the same, and to such person or persons as they shall think fit, to have and to hold, to them the said person or persons, their heirs or assigns, in fee simple or fee taylor, or for term for life, or lives, or years, to be held of them, the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley and Sir John Colleton, their heirs and assigns, by such rents, services and customs, as shall seem meet to the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, their heirs and assigns, and not immediately of us, our heirs and successors, and to the same person and persons, and to all and every of them, we do give and grant by these presents, for us, our heirs and successors, license, authority and power, that such person or persons, may have or take the premises, or any parcel thereof, of the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley and Sir John Colleton, their heirs and assigns, and the same to hold, to themselves, their heirs or assigns, in what estate of inheritance whatsoever, in fee simple, or fee taylor, or otherwise, as to them and the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, their heirs and assigns, shall seem expedient; the statute made in the parliament of Edward, son of King Henry, heretofore king of England, our predecessor, commonly called the statute* of "*quia emptores terrarum*;" or any other statute, act, ordinance, use, law, custom or any other matter, cause or thing heretofore published, or provided to the contrary, in any wise notwithstanding.

13th. And because many persons born, or inhabiting in the said province, for their deserts and services, may expect and be capable of marks of honor and favor, which, in respect of the great distance, cannot be conveniently conferred by us; our will and pleasure therefore is, and we do by these presents, give and grant unto the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord

* 18 Ed. 1 West. 3 c. 1 p. 45.

Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, their heirs and assigns, full power and authority, to give and confer, unto and upon, such of the inhabitants of the said province, as they shall think do or shall merit the same, such marks of favour and titles of honour as they shall think fit, so as these titles of honour be not the same as are enjoyed by, or conferred upon any the subjects of this our kingdom of England.

14th. And further also, we do by these presents, for us, our heirs and successors, give and grant license to them, the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, their heirs and assigns, full power, liberty and license to erect, raise and build within the said province and places aforesaid, or any part or parts thereof, such and so many forts, fortresses, castles, cities, buroughs, towns, villages and other fortifications whatsoever, and the same or any of them to fortify and furnish with ordinance, powder, shot, armory, and all other weapons, ammunition, habilements of war, both offensive and defensive, as shall be thought fit and convenient for the safety and welfare of the said province and places, or any part thereof, and the same, or any of them from time to time, as occasion shall require, to dismantle, disfurnish, demolish and pull down, and also to place, constitute and appoint in and over all or any of the castles, forts, fortifications, cities, towns and places aforesaid, governors, deputy governors, magistrates, sheriffs and other officers, civil and military, as to them shall seem meet, and to the said cities, buroughs, towns, villages, or any other place or places within the said province, to grant "letters or charters of incorporation," with all liberties, franchises and priviledges, requisite and usefull, or to or within any corporations, within this our kingdom of England, granted or belonging; and in the same cities, buroughs, towns and other places, to constitute, erect and appoint such and so many markets, marts and fairs, as shall in that behalf be thought fit and necessary; and further also to erect and make in the province aforesaid, or any part thereof, so many mannors as to them shall seem meet and convenient, and in every of the said mannors to have and to hold a court baron, with all things whatsoever which to a court baron do belong, and to have and to hold views of "frank pledge" and "court leet," for the conservation of the peace and better government of those parts, within such limits, jurisdictions and precincts, as by the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, or their heirs, shall be appointed for that purpose, with all things whatsoever, which to a court leet, or view of frank pledge do belong, the said court to be holden by stewards, to be deputed and authorized by the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, or

their heirs, or by the lords of other manors and leets, for the time being, when the same shall be erected.

15th. And because that in so remote a country, and scituate among so many barbarous nations, and the invasions as well of salvages as of other enemies, pirates and robbers, may probably be feared; therefore we have given, and for us, our heirs and successors, do give power, by these presents, unto the said Edward, Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, their heirs and assigns, by themselves, or their captains, or other their officers, to levy, muster and train all sorts of men, of what condition or wheresoever born, in the said province for the time being, and to make war and pursue the enemies aforesaid, as well by sea as by land, yea, even without the limits of the said province, and by God's assistance to vanquish and take them, and being taken to put them to death by the law of war, or to save them at their pleasure; and to do all and every other thing, which unto the charge of a captain general of an army belongeth, or hath accustomed to belong, as fully and freely as any captain general of an army hath or ever had the same.

16th. Also our will and pleasure is, and by this our charter we give unto the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, their heirs and assigns, full power, liberty and authority, in case of rebellion, tumult or sedition, (if any should happen,) which God forbid, either upon the land within the province aforesaid, or upon the main sea, in making a voyage thither, or returning from thence, by him or themselves, their captains, deputies and officers, to be authorized under his or their seals for that purpose, to whom also, for us, our heirs and successors, we do give and grant by these presents, full power and authority, to exercise martial law against mutinous and seditious persons of those parts, such as shall refuse to submit themselves to their government, or shall refuse to serve in the wars, or shall fly to the enemy, or forsake their colours or ensigns, or be loyterers or straglers, or otherwise howsoever offending against law, custom or discipline military, as freely and in as ample manner and form as any captain general of an army by vertue of his office, might or hath accustomed to use the same.

17th. And our further pleasure is, and by these presents, for us, our heirs and successors, we do grant unto the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, their heirs and assigns, and to all the tenants and inhabitants of the said province of Carolina, both present and to come, and to every of them, that the said province and the tenants and inhabitants thereof, shall not from henceforth be held or reputed a member or part of any colony whatsoever in America, or elsewhere, now

transported or made, or hereafter to be transported or made ; nor shall be depending on, or subject to their government in any thing, but be absolutely seperated and divided from the same ; and our pleasure is, by these presents, that they be seperated, and that they be subject immediately to our crown of England, as depending thereof forever ; and that the inhabitants of the said Province, nor any of them, shall at any time hereafter be compelled or compellable, or be any ways subject or liable to appear or answer to any matter, suit, cause or plaint whatsoever, out of the Province aforesaid, in any other of our islands, colonies, or dominions in America, or elsewhere, other than in our realm of England, and dominion of Wales.

18th. And because it may happen that some of the people and inhabitants of the said province, cannot in their private opinions, conform to the publick exercise of religion, according to the liturgy, form and ceremonies of the church of England, or take and subscribe the oaths and articles, made and established in that behalf, and for that the same, by reason of the remote distances of these places, will, we hope be no breach of the unity and uniformity established in this nation ; our will and pleasure therefore is, and we do by these presents, for us, our heirs and successors, give and grant unto the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, their heirs and assigns, full and free license, liberty and authority, by such legal ways and means as they shall think fit, to give and grant unto such person or persons, inhabiting and being within the said province, or any part thereof, who really in their judgments, and for conscience sake, cannot or shall not conform to the said liturgy and ceremonies, and take and subscribe the oaths and articles aforesaid, or any of them, such indulgencies and dispensations in that behalf, for and during such time and times, and with such limitations and restrictions as they, the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, their heirs or assigns, shall in their discretion think fit and reasonable ; and with this express proviso, and limitation also, that such person and persons, to whom such indulgencies and dispensations shall be granted as aforesaid, do and shall from time to time declare and continue, all fidelity, loyalty and obedience to us, our heirs and successors, and be subject and obedient to all other the laws, ordinances, and constitutions of the said province, in all matters whatsoever, as well ecclesiastical as civil, and do not in any wise disturb the peace and safety thereof, or scandalize or reproach the said liturgy, forms and ceremonies, or any thing relating thereunto, or any person or persons whatsoever, for or in respect of his or their use or exercise thereof, or his or their obedience and conformity, thereunto.

19th. And in case it shall happen, that any doubts or questions should arise, concerning the true sense and understanding of any

word, clause or sentence contained in this our present charter, we will, ordain and command, that at all times, and in all things, such interpretation be made thereof, and allowed in all and every of our courts whatsoever, as lawfully may be adjudged most advantageous and favourable to the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, their heirs and assigns, although express mention be not made in these presents, of the true yearly value and certainty of the premises, or any part thereof, or of any other gifts and grants made by us, our ancestors, or predecessors, to them the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, or any other person or persons whatsoever, or any statute, act, ordinance, provision, proclamation or restraint, heretofore had, made, published, ordained or provided, or any other thing, cause or matter, whatsoever, to the contrary thereof, in any wise notwithstanding.

IN WITNESS, &c.

WITNESS the King, at Westminster, the four and twentieth day of March, in the fifteenth year of our reign, (1663.)

PER IPSUM REGEM.

THE
FUNDAMENTAL CONSTITUTIONS

OF
CAROLINA,

DRAWN UP BY JOHN LOCKE, MARCH 1, 1669.

[See Locke's Works, 8th edition, volume 10, page 175.]

OUR sovereign Lord the King, having out of his royal grace and bounty, granted unto us the Province of Carolina, with all the royalties, properties, jurisdictions and priviledges of a County Palatine, as large and ample as the County Palatine of Durham, with other great Priviledges ; for the better settlement of the government of the said place, and establishing the interest of the Lords Proprietors with equality, and without confusion ; and that the government of this Province may be made most agreeable to the Monarchy under which we live, and of which this Province is a part ; and that we may avoid erecting a numerous democracy : We, the Lords and proprietors of the Province aforesaid, have agreed to this following form of government, to be perpetually established amongst us, unto which we do oblige ourselves, our heirs and successors, in the most binding ways that can be devised.

1st. The eldest of the Lords Proprietors shall be Palatine ; and upon the decease of the Palatine the eldest of the seven surviving proprietors shall always succeed him.

2d. There shall be seven other chief offices erected, viz. the Admirals, Chamberlains, Chancellors, Constables, Chief Justices, High Stewards and Treasurers ; which places shall be enjoyed by none but the Lords Proprietors, to be assigned at first by lot ; and upon the vacancy of any one of the seven great offices, by death or otherwise, the eldest proprietor shall have his choice of the said place. X

3d. The whole Province shall be divided into Counties ; each county shall consist of eight signories, eight baronies and four precincts ; each precinct shall consist of six colonies. X

4th. Each signory, barony, and colony, shall consist of twelve thousand acres, the eight signories being the share of the eight proprietors, and the eight baronies of the nobility ; both which shares, being each of them one fifth of the whole, are to be perpetually annexed, the one to the proprietors and the other to the hereditary nobility ; leaving the colonies, being three fifths,

amongst the people ; so that in setting out and planting the lands, the balance of the government may be preserved.

5th. At any time before the year one thousand, seven hundred and one, any of the lords proprietors shall have power to relinquish, alienate and dispose to any other person, his proprietorship, and all the signories, powers, and interest, thereunto belonging, wholly and intirely together, and not otherwise. But after the year one thousand, seven hundred, those who are then Lords Proprietors, shall not have power to alienate, or make over their proprietorship, with the signories and priviledges thereunto belonging or any part thereof to any person whatsoever, otherwise than in section 18th ; but it shall all descend unto their heirs male ; and for want of heirs male, it shall all descend on that Landgrave, or Casique, of Carolina, who is descended of the next heirs female of the proprietor ; and for want of such heirs, it shall descend on the next heir general ; and for want of such heirs, the remaining seven proprietors shall upon the vacancy, choose a Landgrave to succeed the deceased proprietors, who being chosen by the majority of the seven surviving proprietors, he and his heirs, successively, shall be proprietors, as fully, to all intents and purposes, as any of the rest.

6th. That the number of eight proprietors may be constantly kept ; if upon the vacancy of any proprietorship, the seven surviving proprietors shall not choose a Landgrave to be a proprietor, before the second biennial parliament after the vacancy, then the next biennial parliament but one, after such vacancy shall have power to choose any Landgrave to be a proprietor.

7th. Whosoever after the year one thousand seven hundred, either by inheritance or choice, shall succeed any proprietor in his proprietorship and signories thereunto belonging, shall be obliged to take the name and arms of that proprietor whom he succeeds, which from thenceforth shall be the name and arms of his family and their posterity.

8th. Whatsoever Landgrave or Casique shall any way come to be a proprietor, shall take the signories annexed to the said proprietorship : but his former dignity, with the baronies annexed, shall devolve into the hands of the Lords Proprietors.

9th. There shall be just as many Landgraves as there are counties, and twice as many Casiques, and no more. These shall be the hereditary nobility of the Province, and by right of their dignity be members of parliament. Each Landgrave shall have four baronies, and each Casique two baronies, hereditarily and unalterably annexed to and settled upon the said dignity.

10th. The first Landgraves and Casiques, of the twelve first counties to be planted, shall be nominated thus, that is to say, of the twelve Landgraves, the Lords Proprietors shall each of them separately for himself, nominate and choose one ; and the remaining four Landgraves of the first twelve shall be nominated and chosen by the Palatine's court. In like manner of the twentyfour first Casiques, each proprietor for himself shall nominate and choose two, and the remaining eight shall be nominated and chosen by the palatine's court ; and when the twelve first counties shall be plant-

ed, the Lords Proprietors shall again, in the same manner, nominate and choose twelve more Landgraves, and twentyfour more Casiques, for the next twelve counties to be planted; that is to say, two thirds of each number, by the single nomination of each proprietor for himself, and the remaining third by the joint election of the palatine's court; and so proceed in the same manner, till the whole province of Carolina be set out and planted, according to the proportions in these fundamental constitutions.

11th. Any Landgrave or Casique, at any time before the year one thousand seven hundred and one, shall have power to alienate, sell or make over to any other person, his dignity, with the baronies thereunto belonging, all intirely together; but after the year one thousand, seven hundred, no Landgrave or Casique shall have power to alienate, sell, make over, or let the hereditary baronies of his dignity, or any part thereof, otherwise than as in section 18th; but they shall all intirely, with the dignity thereunto belonging, descend unto his heirs male; and for want of heirs male, all intirely and undivided, to the next heir general; and for want of such heirs shall devolve into the hands of the Lords proprietors.

12th. That the due number of Landgraves and Casiques, may be always kept up; if upon the devolution of any landgraveship, or Casiqueship, the palatine's court shall not settle the devolved dignity, with the baronies thereunto annexed, before the second biennial parliament, after such devolution, the next biennial parliament but one, after such devolution, shall have power to make any one landgrave or casique, in the room of him who dying without heirs, his dignity and baronies devolved.

13th. No one person shall have more than one dignity, with the signiories or baronies thereunto belonging. But whensoever it shall happen, that any one who is already Proprietor, Landgrave, or Casique, shall have any of these dignities descend to him by inheritance, it shall be at his choice to keep which of the dignities, with the lands annexed, he shall like best; but shall leave the other, with the lands annexed, to be enjoyed by him, who not being his heir apparent, and certain successor to his present dignity, is next of blood.

14th. Whosoever by right of inheritance, shall come to be Landgrave or Casique, shall take the name and arms of his predecessor in that dignity, to be from thenceforth the name and arms of his family and their posterity.

15th. Since the dignity of Proprietor, Landgrave or Casique, cannot be divided, and the signiories or baronies, thereunto annexed, must forever all intirely descend with and accompany that dignity; whensoever for want of heirs male, it shall descend on the issue female, the eldest daughter and her heirs shall be preferred, and in the inheritance of those dignities, and in the signiories or baronies annexed, there shall be no co-heirs.

16th. In every signiory, barony, and manor, the respective Lord shall have power in his own name to hold court leet there, for trying of all causes, both civil and crininal; but where it shall concern any person being no inhabitant, vassal, or leet man, of the

said signiory, barony or manor, he upon paying down of forty shillings, for the Lords Proprietors' use, shall have an appeal from the signiory, or barony court, to the county court, and from the manor court to the precinct court.

17th. Every manor shall consist of not less than three thousand acres, and not above twelve thousand acres, in one intire piece and colony ; but any three thousand acres or more, in one piece, and the possession of one man, shall not be a manor, unless it be constituted a manor by the grant of the palatine's court.

18th. The Lords of signiories and baronies, shall have power only of granting estates not exceeding three lives, or twentyone years, in two thirds of the said signiories, or baronies, and the remaining third shall be always demesne.

19th. Any Lord of a manor, may alienate, sell, or dispose to any other person and his heirs forever, his manor all intirely together, with all the priviledges and leet men, thereunto belonging, so far forth as any colony lands ; but no grant of any part thereof, either in fee or for any longer term than three lives, or one and twenty years, shall be good against the next heir.

20th. No manor, for want of issue male, shall be divided amongst co-heirs ; but the manor, if there be but one, shall all intirely descend to the eldest daughter and her heirs. If there be more manors than one, the eldest daughter first shall have her choice, the second next, and so on, beginning again at the eldest until all the manors be taken up ; that so the priviledges which belong to manors, being indivisible, the lands of the manors, to which they are annexed, may be kept intire, and the manor not lose those priviledges, which upon parcelling out to several owners must necessarily cease.

21st. Every Lord of a manor, within his own manor, shall have all the powers, jurisdictions and priviledges, which a Landgrave or Casique hath in his baronies.

22d. In every signiory, barony and manor, all the leet men shall be under the jurisdiction of the respective Lords of the said signiory, barony or manor, without appeal from him. Nor shall any leet man, or leet woman have liberty to go off from the land of their particular Lord and live any where else, without license obtained from their said Lord, under hand and seal.

23d. All the children of leet men, shall be leet men, and so to all generations.

24th. No man shall be capable of having a court leet, or leet men, but a Proprietor, Landgrave, Casique, or Lord of a manor.

25th. Whoever shall voluntarily enter himself a leet man, in the registry of the county court, shall be a leet man.

26th. Whoever is Lord of leet men, shall upon the marriage of a leet man, or leet woman of his, give them ten acres of land, for their lives, they paying to him therefore, not more than one eighth part of all the yearly produce and growth of the said ten acres.

27th. No Landgrave or Casique, shall be tried for any criminal cause, in any but the Chief-justice's court, and that by a jury of his peers.

28th. There shall be eight supreme courts. The first called the palatine's court, consisting of the Palatine and the other seven Proprietors. The other seven courts, of the other seven great officers, shall consist each of them of a Proprietor, and six counsellors added to him. Under each of these latter seven courts, shall be a college of twelve assistants. The twelve assistants of the several colleges, shall be chosen, two out of the Landgraves, Casiques, or eldest sons of the Proprietors, by the palatine's court: two out of the Landgraves, by the Landgraves' Chamber; two out of the Casiques, by the Casiques' chamber; four more of the twelve, shall be chosen by the Common's chamber, out of such as have been, or are members of parliament, sheriffs, or justices of the county court, or the younger sons of Proprietors, or the eldest sons of Landgraves or Casiques; the two others shall be chosen by the Palatine's court, out of the same sort of persons out of which the common's chamber is to choose.

29th. Out of these colleges, shall be chosen at first by the palatine's court, six counsellors to be joined with each Proprietor in his court; of which six, one shall be of those, who were chosen into any of the colleges by the palatine's court, out of the Landgraves, Casiques, or eldest sons of Proprietors; one, out of those who were chosen by the Landgrave's chamber; one, out of those who were chosen by the Casique's chamber; two, out of those who were chosen by the Common's chamber; and one out of those who were chosen by the Palatine's court, out of the Proprietor's younger sons, or eldest sons of Landgraves, Casiques, or Commons qualified as aforesaid.

30th. When it shall happen that any Counsellor dies, and thereby there is a vacancy; the grand council shall have power to remove any counsellor that is willing to be removed out of any of the Proprietor's courts, to fill up the vacancy, provided they take a man of the same degree and choice the other was of, whose place is to be filled up. But if no counsellor consent to be removed, or upon such remove the last remaining vacant place, in any of the Proprietors courts, shall be filled up by the choice of the grand council, who shall have power to remove out of any of the colleges, any assistant who is of the same degree and choice that counsellor was of, into whose vacant place he is to succeed. The grand council also, have power to remove any assistant, that is willing, out of one college into another, provided he be of the same degree and choice. But the last remaining vacant place in any college, shall be filled up by the same choice, and out of the same degree of persons the assistant was of, who is dead or removed. No place shall be vacant in any Proprietor's court above six months. No place shall be vacant in any college, longer than the next session of parliament.

31st. No man being a member of the grand council, or of any of the seven colleges, shall be turned out, but for misdemeanour, of which the grand council shall be judge; and the vacancy of the person so put out, shall be filled, not by the election of the grand council, but by those who first chose him, and out of the same

degree he was of, who is expelled. But it is not hereby to be understood, that the grand council hath any power to turn out any one of the Lords Proprietors, or their deputies; the Lords Proprietors having in themselves, an inherent original right.

32d. All elections in the parliament, in the several chambers of the parliament, and in the grand council, shall be passed by balloting.

33d. The Palatine's court shall consist of the palatine, and seven Proprietors, wherein nothing shall be acted without the presence and consent of the Palatine or his deputy, and three other of the Proprietors or their deputies. This court shall have power to call Parliaments, to pardon all offences, to make elections of all officers in the Proprietor's dispose, and to nominate and appoint port townes; and also shall have power by their order to the treasurer, to dispose of all public treasure, excepting money granted by the Parliament, and by them directed to some particular public use; and also shall have a negative upon all acts, orders, votes and judgments of the grand council and the parliament, except only as in Sec. 6th and 12th, and shall have all the powers granted to the Lords Proprietors, by their patent from our sovereign lord the king, except in such things as are limited by these fundamental constitutions.

34th. The Palatine himself, when he in person shall be either in the army, or any of the Proprietor's courts, shall then have the power of general, or of that Proprietor in whose court he is then present, and the Proprietor in whose court the Palatine then presides, shall during his presence there, be but as one of the council.

35th. The chancellor's court, consisting of one of the Proprietors, and his six counsellors, who shall be called vice chancellors, shall have the custody of the seal of the Palatine, under which charters of lands or otherwise, commissions and grants of the Palatine's court, shall pass. And it shall not be lawful to put the seal of the Palatinate to any writing, which is not signed by the Palatine or his deputy, and three other Proprietors or their deputies. To this court also belong all state matters, despatches, and treaties with the neighbour Indians. To this court also belong all invasions of the law, of liberty, of conscience, and all invasions of the public peace, upon pretence of religion, as also the license of printing. The twelve assistants belonging to this court, shall be called recorders.

36th. Whatever passes under the seal of the Palatinate, shall be registered in that proprietor's court to which the matter therein contained, belongs.

37th. The Chancellor or his deputy, shall be always speaker in Parliament, and president of the grand council, and in his and his deputy's absence, one of the vice chancellors.

38th. The Chief Justice's Court, consisting of one of the proprietors and his six counsellors, who shall be called justices of the bench, shall judge all appeals in cases both civil and criminal, except all such cases as shall be under the jurisdiction and cognizance

of any other of the Proprietor's courts, which shall be tried in those courts respectively. The government and regulation of registries of writings and contracts, shall belong to the jurisdiction of this court. The twelve assistants of this court, shall be called masters.

39th. The Constable's Court, consisting of one of the Proprietors and his six counsellors, who shall be called Marshalls, shall order and determine of all military affairs by land, and all land forces, arms, ammunition, artillery, garrisons and forts, &c. and whatever belongs unto war. His twelve assistants shall be called Lieutenant Generals.

40th. In time of actual war, the Constable while he is in the army, shall be general of the army; and the six Counsellors, or such of them as the Palatine's Court shall for that time or service appoint, shall be the immediate great officers under him, and the Lieutenant Generals next to them.

41st. The Admiral's Court, consisting of one of the Proprietors, and his six Counsellors, called Consuls, shall have the care and inspection over all ports, moles, and navigable rivers so far as the tide flows, and also all the public shipping of Carolina, and stores thereunto belonging, and all maritime affairs. This court also shall have the power of the court of admiralty; and shall have power to constitute Judges in port towns, to try cases belonging to law-merchant, as shall be most convenient for trade. The twelve assistants belonging to this court, shall be called proconsuls.

42d. In time of actual war, the admiral whilst he is at sea, shall command in chief, and his six counsellors, or such of them as the Palatine's Court shall for that time or service appoint, shall be the immediate great officers under him, and the proconsuls next to them.

43d. The treasurer's court, consisting of a proprietor and his six counsellors, called under treasurers, shall take care of all matters that concern the public revenue and treasury. The twelve assistants shall be called Auditors.

44th. The high Steward's Court, consisting of a proprietor and his six counsellors, called comptrollers, shall have the care of all foreign and domestic trade, manufactures, public buildings, work houses, highways, passages by water above the flood of the tide, drains, sewers, and banks against inundations, bridges, posts, carriers, fairs, markets, corruption or infection of the common air or water, and all things in order to the public commerce and health; also, setting out and surveying of lands; and also setting out and appointing places for towns to be built on, in the precincts, and the prescribing and determining the figure and bigness of the said towns according to such models as the said courts shall order; contrary or differing from which models, it shall not be lawful for any one to build in any town. This court shall have power also to make any public building, or any new highway, or enlarge any old highway upon any man's land whatsoever; as also to make cuts, channels, banks, locks and bridges for making rivers navigable, or for draining fens, or any other public use. The damage the owner

of such lands (on or through which any such public things shall be made) shall receive thereby, shall be valued, and satisfaction made, by such ways as the grand council shall appoint. The twelve assistants belonging to this court shall be called surveyors.

45th. The Chamberlain's Court, consisting of a Proprietor and six Counsellors, called vice chamberlains, shall have the care of all ceremonies, precedence, heraldry, reception of public messengers, pedigrees, the registry of all births, burials, and marriages, legitimation, and all cases concerning matrimony, or arising from it; and shall also have power to regulate all fashions, habits, badges, games and sports. To this Court it shall also belong, to convocate the grand council. The twelve assistants belonging to this Court, shall be called Provosts.

46th. All causes belonging to, or under the jurisdiction of any of the Proprietor's Courts, shall in them respectively be tried, and ultimately determined, without any further appeal.

47th. The Proprietor's Courts shall have a power to mitigate all fines, and suspend all execution in criminal causes, either before or after sentence, in any of the other inferior courts respectively.

48th. In all debates, hearings or trials in any of the Proprietor's Courts, the twelve assistants belonging to the said courts respectively, shall have liberty to be present, but shall not interpose unless their opinions be required, nor have any vote at all; but their business shall be, by the direction of the respective courts, to prepare such business as shall be committed to them; as also to bear such offices, and dispatch such affairs, either where the court is kept, or elsewhere, as the court shall think fit.

49th. In all the Proprietor's Courts, the Proprietor and any three of his Counsellors shall make a quorum; provided always, that for the better despatch of business, it shall be in the power of the Palatine's Court to direct what sort of causes shall be heard and determined by a quorum of any three.

50th. The grand council shall consist of the Palatine and seven Proprietors, and the fortytwo Counsellors of the several Proprietor's Courts, who shall have power to determine any controversy that may arise between any of the Proprietor's Courts, about their respective jurisdictions, or between the members of the same court, about their manner and methods of proceedings; to make peace and war, leagues, treaties, &c. with any of the neighbour Indians; to issue out their general orders to the Constable's and Admiral's Courts, for the raising, disposing, or disbanding the forces, by land or by sea.

51st. The grand council shall prepare all matters to be proposed in Parliament. Nor shall any matter whatsoever, be proposed in Parliament, but what has first passed the grand council; which after having been read, three several days in the Parliament, shall by majority of votes, be passed or rejected.

52d. The grand council shall always be judges of all causes and appeals that concern the Palatine, or any of the Lords Proprietors, or any Counsellor of any Proprietor's Court, in any cause which should otherwise have been tried in the court of which the said Counsellor is Judge himself.

53d. The grand council by their warrants to the Treasurer's Court, shall dispose of all the money given by the Parliament, and by them directed to any particular public use.

54th. The quorum of the grand council shall be thirteen, whereof a Proprietor or his deputy shall be always one.

55th. The grand council shall meet the first Tuesday in every month, and as much oftener as either they shall think fit, or they shall be convocated by the Chamberlain's Court.

56th. The Palatine, or any of the Lords Proprietors, shall have power, under hand and seal, to be registered in the grand council, to make a deputy, who shall have the same power to all intents and purposes, as he himself, who deposes him; except in confirming acts of Parliament as in Sec. 76th, and except also in nominating and choosing Landgraves and Casiques, as in Sec. 10th. All such deputations, shall cease and determine at the end of four years, and at any time shall be revocable, at the pleasure of the deputator.

57th. No deputy of any proprietor shall have any power, whilst the deputator is in any part of Carolina, except the Proprietor, whose deputy he is, be a minor.

58th. During the minority of any Proprietor, his guardian shall have power to constitute and appoint his deputy.

59th. The eldest of the Lords Proprietors who shall be personally in Carolina, shall of course be the Palatine's deputy, and if no proprietor be in Carolina, he shall choose his deputy out of the heirs apparent of any of the Proprietors, if any such be there; and if there be no heir apparent of any of the Lords Proprietors, above one and twenty years old in Carolina, then he shall choose for deputy, any one of the Landgraves of the grand council; till he have by deputation under hand and seal chosen any one of the fore-mentioned heirs apparent, or Landgraves, to be his deputy, the eldest man of the Landgraves, and for want of a Landgrave, the eldest man of the Casiques, who shall be personally in Carolina, shall of course be his deputy.

60th. Each Proprietor's deputy, shall be always one of his six Counsellors respectively; and in case any of the Proprietors hath not, in his absence out of Carolina, a deputy, commissioned under his hand and seal, the eldest nobleman of his court, shall of course be his deputy.

61st. In every county, there shall be a court consisting of a sheriff, and four Justices of the county, for every precinct, one. The Sheriff shall be an inhabitant of the county, and have at least five hundred acres of freehold within the said county; and the justices shall be inhabitants, and have each of them five hundred acres apiece freehold within the precinct for which they serve respectively. These five shall be chosen from time to time and commissioned, by the Palatine's court.

62d. For any personal causes exceeding the value of two hundred pounds sterling, or in title of land, or in any criminal cause, either party upon paying twenty pounds sterling to the Lords

Proprietor's use, shall have liberty of appeal from the County Court, unto the respective Proprietor's Court.

63d. In every precinct there shall be a court consisting of a Steward, and four Justices of the precinct, being inhabitants, and having three hundred acres of freehold within the said precinct, who shall judge all criminal crimes ; except for treason, murder, and any other offences punishable with death, and except all criminal causes of the nobility ; and shall judge also, all civil causes whatsoever ; and in all personal actions not exceeding fifty pounds sterling without appeal ; but where the cause shall exceed that value, or concern a title of land, and in all criminal causes ; there either party upon paying five pounds sterling, to the Lords Proprietor's use, shall have liberty of appeal to the county court.

64th. No cause shall be twice tried in any one court, upon any reason or pretence whatsoever.

65th. For treason, murder, and all other offences punishable with death, there shall be a commission twice a year at least, granted unto one or more members of the grand council, or colleges, who shall come as itinerant Judges to the several counties, and with the Sheriff and four Justices, shall hold assizes, to judge all such causes ; but upon paying of fifty pounds sterling, to the Lords proprietors use, there shall be liberty of appeal to the respective Proprietors court.

66th. The Grand Jury at the several assizes, shall upon their oaths and under their hands and seals, deliver into their itinerant Judges, a presentment of such grievances, misdemeanours, exigencies, or defects, which they think necessary for the public good of the country ; which presentments shall by the itinerant Judges, at the end of their circuit, be delivered in to the grand council, at their next sitting. And whatsoever therein concerns the execution of laws, already made, the several Proprietor's courts, in the matters belonging to each of them respectively, shall take cognisance of it, and give such order about it, as shall be effectual for the due execution of the laws. But whatever concerns the making of any new law, shall be referred to the several respective courts, to which that matter belongs, and be by them prepared and brought to the grand council.

67th. For terms, there shall be quarterly, such a certain number of days, not exceeding one and twenty at any one time, as the several respective courts shall appoint. The time for the beginning of the term in the Precinct court shall be the first Monday in January, April, July and October, in the County court, the first Monday in February, May, August and November ; and in the Proprietor's courts, the first Monday in March, June, September and December.

68th. In the Precinct court, no man shall be a Juryman, under fifty acres of freehold. In the County court, or at the assizes, no man shall be a grand juryman, under three hundred acres of freehold ; and no man shall be a petty juryman, under two hundred acres of freehold. In the Proprietor's courts, no man shall be a juryman, under five hundred acres of freehold.

69th. Every jury shall consist of twelve men ; and it shall not be necessary they should all agree, but the verdict shall be according to the consent of the majority.

70th. It shall be a base and vile thing, to plead for money or reward ; nor shall any one, (except he be a near kinsman, nor farther off than cousin german to the party concerned) be permitted to plead another man's cause, till before the judge, in open court, he hath taken an oath that he doth not plead for money or reward, nor hath, nor will receive, nor directly, nor indirectly, bargained with the party whose cause he is going to plead, for money, or any other reward for pleading his cause.

71st. There shall be a Parliament consisting of the Proprietors, or their deputies, the Landgraves and Casiques, and one freeholder out of every precinct, to be chosen by the freeholders of the said precinct respectively. They shall sit all together in one room, and have, every member, one vote.

72d. No man shall be chosen a member of Parliament, who has less than five hundred acres of freehold within the precinct for which he is chosen, nor shall any have a vote in choosing the said member, that hath less than fifty acres of freehold within the said precinct.

73d. A new Parliament shall be assembled the first Monday of the month of November, every second year, and shall meet and sit in the town they last sat in, without any summons, unless by the Palatine's court they be summoned to meet at any other place. And if there shall be any occasion of a parliament in these intervals, it shall be in the power of the Palatine's court, to assemble them in forty days' notice, and at such time and place as the said court shall think fit ; and the Palatine's court shall have power to dissolve the said Parliament, when they shall think fit.

74th. At the opening of every Parliament, the first thing that shall be done, shall be the reading of these Fundamental Constitutions, which the Palatine and Proprietors, and the rest of the members then present, shall subscribe. Nor shall any person whatsoever, sit or vote in the Parliament, till he hath that session subscribed these Fundamental Constitutions, in a book kept for that purpose, by the clerk of the parliament.

75th. In order to the due election of members, for the biennial Parliament, it shall be lawful for the freeholders of the respective precincts to meet the first Tuesday in September, every two years, in the same town or place that they last met in, to choose parliament men, and there choose those members that are to sit the next November following ; unless the steward of the precinct shall by sufficient notice, thirty days before, appoint some other place for their meeting in order to the election.

76th. No act or order of Parliament shall be of any force, unless it be ratified in open parliament during the same session, by the Palatine or his deputy, and three more of the Lords Proprietors or their deputies ; and then not to continue longer in force, but until the next biennial Parliament, unless in the meantime it be ratified under the hands and seals of the Palatine himself,

and three more of the Lords Proprietors, themselves, and by their order published at the next biennial Parliament.

77th. Any Proprietor or his deputy may enter his protestation against any act of the Parliament, before the Palatine or his deputy's consent be given as aforesaid; if he shall conceive the said act to be contrary to this establishment, or any of these Fundamental Constitutions of the Government. And in such case, after full and free debate, the several estates shall retire into four several chambers, the Palatine and Proprietors into one; the Landgraves into another; the Casiques into another; and those chosen by the Precincts into a fourth; and if the major part of any of the four estates shall vote that the law is not agreeable to this establishment, and these Fundamental Constitutions of the Government, then it shall pass no farther, but be as if it had never been proposed.

78th. The quorum of the Parliament shall be one half of those who are members, and capable of sitting in the house, that present session of Parliament. The quorum of each of the Chambers of Parliament, shall be one half of the members of that chamber.

79th. To avoid multiplicity of laws, which by degrees always change the right foundations of the original government, all acts of Parliament whatsoever, in whatsoever form passed or enacted, shall at the end of a hundred years after their enacting, respectively cease, and determine of themselves, and without any repeal, become null and void, as if no such acts or laws had ever been made.

80th. Since multiplicity of comments, as well as of laws, have great inconveniences, and serve only to obscure and perplex; all manner of comments and expositions, on any part of these Fundamental Constitutions, or on any part of the common or statute laws of Carolina, are absolutely prohibited.

81st. There shall be a registry in every precinct, wherein shall be enrolled all deeds, leases, judgments, mortgages, and other conveyances, which may concern any of the lands within the said precinct; and all such conveyances, not so entered and registered, shall not be of force against any person or party to the said contract or conveyance.

82d. No man shall be Register of any precinct, who hath not at least three hundred acres of freehold within the said precinct.

83d. The freeholders of every precinct shall nominate three men, out of which three, the Chief Justice's Court shall choose and commission one to be Register of the said precinct, whilst he shall well behave himself.

84th. There shall be a Registry in every Signiory, Barony and Colony, wherein shall be recorded all the births, marriages and deaths that shall happen within the respective Signiories, Baronies and Colonies.

85th. No man shall be Register of a Colony that hath not above fifty acres of freehold within the said colony.

86th. The time of every one's age, that is born in Carolina, shall be reckoned from the day that his birth is entered in the registry, and not before.

87th. No marriage shall be lawful, whatever contract and ceremony they have used, till both the parties mutually own it, before the Register of the place where they were married, and he register it, with the names of the father and mother of each party.

88th. No man shall administer to the goods, or have a right to them, or enter upon the estate of any person deceased, till his death be registered in the respective registry.

89th. He that doth not enter, in the respective registry, the birth or death of any person that is born, or dies, in his house or ground, shall pay to the said Register one shilling per week for each such neglect, reckoning from the time of each birth, or death respectively, to the time of entering it in the register.

90th. In like manner, the births, marriages, and deaths of the Lords Proprietors, Landgraves and Casiques, shall be registered in the Chamberlain's Court.

91st. There shall be in every colony, one Constable, to be chosen annually by the freeholders of the colony. His estate shall be above a hundred acres of freehold within the said colony, and such subordinate officers appointed for his assistance, as the county court shall find requisite, and shall be established by the said county court. The election of the subordinate annual officers, shall be also in the freeholders of the colony.

92d. All towns incorporate, shall be governed by a Mayor, twelve Aldermen, and twentyfour of the common Council. The said common council shall be chosen by the present householders of the said town; the Aldermen shall be chosen out of the common council, and the mayor out of the aldermen, by the palatine's court.

93d. It being of great consequence to the plantation, that port towns should be built and preserved; therefore whosoever shall lade or unlade any commodity at any other place but a port town, shall forfeit to the Lords proprietors, for each tun, so laden or unladen, the sum of ten pounds sterling; except only such goods as the palatine's court shall license to be laden or unladen elsewhere.

94th. The first port town upon every river, shall be in a colony, and be a port town forever.

95th. No man shall be permitted to be a freeman of Carolina, or to have any estate or habitation within it, that doth not acknowledge a God, and that God is publicly and solemnly to be worshiped.

96th. (As the country comes to be sufficiently planted, and distributed into fit divisions, it shall belong to the parliament to take care for the building of churches and the public maintenance of divines, to be employed in the exercise of religion, according to the church of England; which being the only true and orthodox, and the national religion of all the king's dominions, is so also of Carolina, and therefore it alone shall be allowed to receive public maintenance by grant of parliament.)

97th. But since the natives of that place, who will be concerned in our plantation, are utterly strangers to Christianity, whose idola-

try, ignorance or mistake, gives us no right to expel or use them ill ; and those who remove from other parts to plant there, will unavoidably be of different opinions, concerning matters of religion, the liberty whereof they will expect to have allowed them, and it will not be reasonable for us on this account to keep them out ; that civil peace may be obtained amidst diversity of opinions, and our agreement and compact with all men, may be duly and faithfully observed ; the violation whereof, upon what pretence soever, cannot be without great offence to Almighty God, and great scandal to the true religion which we profess ; and also that Jews, Heathens and other dissenters from the purity of the Christian religion, may not be scared and kept at a distance from it, but by having an opportunity of acquainting themselves with the truth and reasonableness of its doctrines, and the peaceableness and in-offensiveness of its professors, may by good usage and persuasion, and all those convincing methods of gentleness and meekness, suitable to the rules and design of the gospel, be won over to embrace, and unfeignedly receive the truth ; therefore any seven or more persons agreeing in any religion, shall constitute a church or profession, to which they shall give some name, to distinguish it from others.

98th. The terms of admittance and communion with any church or profession, shall be written in a book, and therein be subscribed by all the members of the said church or profession ; which book shall be kept by the public Register of the Precinct wherein they reside.

99th. The time of every one's subscription and admittance, shall be dated in the said book or religious record.

100th. In the terms of communion of every church or profession, these following shall be three, without which no agreement or assembly of men, upon pretence of religion, shall be accounted a church or profession within these rules.

1st. "That there is a God."

2d. "That God is publickly to be worshipped."

3d. "That it is lawful, and the duty of every man, being thereunto called by those that govern, to bear witness to truth ; and that every church or profession shall in their terms of communion, set down the eternal way whereby they witness a truth as in the presence of God, whether it be by laying hands on or kissing the bible, as in the church of England, or by holding up the hand or any other sensible way."

101st. No person above seventeen years of age, shall have any benefit or protection of the law, or be capable of any place of profit or honor, who is not a member of some church or profession, having his name recorded in some one, and but one religious record, at once.

102d. No person of any other church or profession shall disturb or molest any religious assembly.

103d. No person whatsoever, shall speak any thing in their religious assembly irreverently or seditiously of the government or governors, or of state matters.

104th. Any person subscribing the terms of communion, in the record of the said church or profession, before the precinct register and any five members of the said church or profession, shall be thereby made a member of the said church or profession.

105th. Any person, striking his own name out of any religious record, or his name being struck out by any officer thereunto authorized by such church or profession respectively, shall cease to be a member of that church or profession.

106th. No man shall use any reproachful, reviling, or abusive language against any religion of any church or profession; that being the certain way of disturbing the peace, and of hindering the conversion of any to the truth, by engaging them in quarrels and animosities, to the hatred of the professors and that profession which otherwise they might be brought to assent to.

107th. Since charity obliges us to wish well to the souls of all men, and religion ought to alter nothing in any man's civil estate or right, it shall be lawful for slaves as well as others, to enter themselves and be of what church or profession any of them shall think best, and thereof be as fully members as any freeman. But yet no slave shall hereby be exempted from that civil dominion his master hath over him, but be in all things in the same state and condition he was in before.

108th. Assemblies upon what pretence soever of religion, not observing and performing the above said rules, shall not be esteemed as churches, but unlawful meetings, and be punished as other riots.

109th. No person whatsoever shall disturb, molest, or persecute another, for his speculative opinions in religion, or his way of worship.

110th. Every freeman of Carolina, shall have absolute power and authority over his negro slaves, of what opinion or religion soever.

111th. No cause, whether civil or criminal, of any freeman, shall be tried in any court of judicature, without a jury of his peers.

112th. No person whatever, shall hold or claim any land in Carolina, by purchase or gift, or otherwise, from the natives or any other whatsoever; but merely from and under the Lords Proprietors, upon pain of forfeiture of all his estate, moveable or immoveable, and perpetual banishment.

113th. Whosoever shall possess any freehold in Carolina, upon what title or grant soever, shall at the farthest, from and after the year one thousand six hundred and eighty nine, pay yearly unto the Lords Proprietors, for each acre of land, English measure, as much fine silver as is at this present time in one English penny, or the value thereof, to be as a chief rent and acknowledgement to the Lords Proprietors, their heirs and successors forever. And it shall be lawful for the palatine's court, by their officers, at any time, to take a new survey of any man's land, not to oust him of any part of his possession, but that by such a survey, the just number of acres he possesseth may be known, and the rent thereon due, may be paid by him.

114th. All wrecks, mines, minerals, quarries of gems and precious stones, with pearl fishing, whale fishing, and one half of all ambergris, by whomsoever found, shall wholly belong to the Lords Proprietors.

115th. All revenues and profits, belonging to the Lords Proprietors, in common, shall be divided into ten parts, whereof the palatine shall have three, and each proprietor one; but if the palatine shall govern by a deputy, the deputy shall have one of those three tenths, and the palatine the other two tenths.

116th. All inhabitants and freemen of Carolina, above seventeen years of age, and under sixty, shall be bound to bear arms, and serve as soldiers, whenever the grand council shall find it necessary.

117th. A true copy of these Fundamental constitutions shall be kept in a great book, by the register of every precinct, to be subscribed before the said register. Nor shall any person of what degree or condition soever, above seventeen years old, have any estate or possession in Carolina, or protection or benefit of the law there, who hath not, before a precinct register, subscribed these fundamental constitutions, in this form:

“I, A. B., do promise to bear faith, and true allegiance, to our sovereign Lord King Charles the second, his heirs and successors, and will be true and faithful to the Palatine and Lords Proprietors of Carolina, their heirs and successors; and with my utmost power, will defend them and maintain the government, according to this establishment in these fundamental Constitutions.”

118th. Whatsoever alien shall in this form, before any precinct Register, subscribe these fundamental constitutions, shall be thereby naturalized.

119th. In the same manner shall every person, at his admittance into any office, subscribe these fundamental constitutions.

120th. These fundamental constitutions, in number a hundred and twenty, and every part thereof, shall be and remain, the sacred and unalterable form and rule of government of Carolina forever. Witness our hands and seals the first day of March, 1669.

RULES OF PRECEDENCY.

1st. The Lords Proprietors; the eldest in age first, and so in order.

2d. The eldest sons of the Lords Proprietors; the eldest in age first, and so in order.

3d. The Landgraves of the grand council, he that hath been longest of the grand council first, and so in order.

4th. The Casiques of the grand council; he that hath been longest of the grand council first, and so in order.

5th. The seven Commoners of the grand council, that have been longest of the grand council; he that hath been longest of the grand council first, and so in order.

6th. The younger sons of the Proprietors; the eldest first; and so in order.

7th. The Landgraves ; the eldest in age first, and so in order.

8th. The seven Commoners, who next to those before mentioned have been longest of the grand council ; he that hath been longest of the grand council first, and so in order.

9th. The Casiques ; the eldest in age first, and so in order.

10th. The seven remaining Commoners of the grand council ; he that hath been longest of the grand council first, and so in order.

11th. The male line of the Proprietors.

The rest shall be determined by the Chamberlain's Court.

ACT OF SURRENDER.

ANNO SECUNDO GEORGII II. REGIS. CH. 34, ANNO
DOMINI 1729.

AN ACT FOR ESTABLISHING AN AGREEMENT WITH SEVEN OF THE LORDS PROPRIETORS OF CAROLINA, FOR THE SURRENDER OF THEIR TITLE AND INTEREST IN THAT PROVINCE TO HIS MAJESTY.

WHEREAS, his late Majesty King Charles the second, by his letters patent under the great seal of Great Britain, bearing date at Westminster, in the fifteenth year of his reign, did grant and confirm unto Edward, then Earl of Clarendon, George, then Duke of Albemarle, William, then Lord Craven, John, then Lord Berkeley, Anthony, then Lord Ashley, Sir George Carteret, Knight and Baronet, Sir William Berkeley, and Sir John Colleton, Knt. and Baronet, all since deceased, their heirs and assigns, all that Territory or tract of ground, situate, lying and being within his said late Majesty's dominions in America, extending from the North end of the island called Luckar island, which lieth in the Southern Virginian seas, and within six and thirty degrees of the Northern latitude, and to the West as far as the South seas, and so southerly as far as the river St. Matthias, which bordereth upon the Coast of Florida, and within one and thirty degrees of Northern latitude, and so West in a direct line as far as the South seas aforesaid, together with all and singular ports, harbours, bays, rivers, isles and islets, belonging unto the country aforesaid, and also all the soil, lands, fields, woods, mountains, farms, lakes, rivers, bays and islets, situate, or being within the bounds or limits aforesaid, with the fishing of all sorts of fish, whales and sturgeons, and all other royal fishes, in the seas, bays, islets and rivers within the premises, and the fish therein taken, and moreover all veins, mines, quarries, as well discovered as not discovered, of gold, silver, gems and precious stones, and all other whatsoever, whether of stones, metals or any other thing whatsoever, found or to be found, within the country, isles, and limits aforesaid, and also the patronages and advowsons of all churches and chappels, which as Christian religion should increase within the country, isles, islets and limits aforesaid, should happen thereafter to be erected, together with license and power to build and found churches, chappels, and oratories, in convenient and fit places, within the said bounds and limits, and to cause them to be dedicated and consecrated, according to the Ec-

clesiastical laws of the Kingdom of England, together with all and singular the like and so ample rights, jurisdictions, priviledges, royalties, prerogatives, liberties, immunities and franchises of what kind soever, within the country, isles and limits aforesaid, to have, use, exercise, and enjoy, and in as ample manner as any Bishop of Durham in the Kingdom of England, ever thentofore had, held, used or enjoyed, or of right ought or could have, use or enjoy ; and his said late Majesty did thereby for himself, his heirs and successors, make, create, and constitute the said Edward, Earl of Clarendon, George, Duke of Albemarle, William, Lord Craven, John, Lord Berkley, Anthony, Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, their heirs and assigns, the true and absolute Lords and Proprietors of the country aforesaid, and all others the premises, (saving as therein is mentioned,) to have, hold, possess, and enjoy, the said country, isles, islets, and all and singular, other the premises, to them the said Edward, Earl of Clarendon, George, Duke of Albemarle, William, Lord Craven, John, Lord Berkley, Anthony, Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, their heirs and assigns forever, to be holden of his late said Majesty, his heirs and successors, as of his mannor of East Greenwich in the county of Kent, in free and common soccage, and not in capite, or by knight's service : And whereas, his late said Majesty, King Charles the second, by other letters patent, under the great seal of England, bearing date the thirtieth day of June, in the seventeenth year of his reign, reciting the letters patent herein first recited, did grant unto the said Edward, Earl of Clarendon, George, Duke of Albemarle, William, Lord Craven, then Earl of Craven, John, Lord Berkley, Anthony, Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkley, their heirs and assigns, all that Province, territory or tract of ground, situate, lying, and being within his said late Majesty's Dominions of America, extending North and Eastward, as far as the North end of Carahutke River or Gullet, upon a strait Westerly line to Wyonake Creek, which lies within or about the degrees of thirtysix and thirty minutes North Latitude, and so West in a direct line as far as the South Seas, and South and Westward, as far as the degrees of twentynine inclusive, Northern latitude, and so West in a direct line, as far as the South Seas, together with all and singular ports, harbours, bays, rivers and islets belonging unto the Province or Territory aforesaid, and also all the soil, lands, fields, woods, farms, lakes, rivers, bays or islets situate or being within the bounds or limits aforesaid last before, with the fishing of all sorts of fish, whales, sturgeons, and all other royal fishes in the seas, bays, islets, and rivers, within the Premises, and the fish therein taken, together with the royalty of the sea upon the coast, within the limits aforesaid, and all veins, mines and quarries, as well discovered as not discovered, of gold, silver, gems and precious stones, and all other whatsoever, be it of stones, metals, or any other things, found or to be found, within the Province, territory, islets and limits aforesaid, and furthermore the patronages and

advowsons of all churches and chappels, which as Christian religion should increase within the Province, territory, isles and limits aforesaid, should happen thereafter to be erected, together with license and power to build and found churches, chappels, and oratories in convenient and fit places within the said bounds and limits, and to cause them to be dedicated and consecrated according to the Ecclesiastical laws of the Kingdom of England, together with all and singular the like, and as ample rights, jurisdictions, priviledges, prerogatives, royalties, liberties, immunities and franchises of what kind soever, within the territories, isles, islets, and limits aforesaid, to have, hold, use, exercise and enjoy the same, as amply and fully and in as ample manner, as any Bishop of Durham in the Kingdom of England ever thentofore had, held, used or enjoyed, or of right ought or could have, use or enjoy ; and his said late Majesty, did thereby for himself, his heirs and successors, make, create, constitute and appoint them the said Edward, Earl of Clarendon, George, Duke of Albemarle, William, Earl of Craven, John, Lord Berkley, Anthony, Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkley, their heirs and assigns, the true and absolute Lords and Proprietors of the said Province or territory, and of all other the premises, (saving as therein is mentioned,) to have, hold, possess and enjoy the said Province, territory, islets, and all and singular other the premises, to them the said Edward, Earl of Clarendon, George, Duke of Albemarle, William, Earl of Craven, John, Lord Berkley, Anthony, Lord Ashley, Sir George Carteret, Sir John Colleton and Sir William Berkley, their heirs and assigns forever, to be holden of his said Majesty, his heirs and successors, as of his manor of East Greenwich aforesaid, in free and common soccage, and not in capite, or by Knight's service, as in and by the said several late recited letters patent, relation being thereunto had, may appear ; And whereas, the part, share, interest and estate of the said Edward, late Earl of Clarendon, of and in the Provinces, territories, islets, hereditaments and premises, in and by the said several recited letters patent granted and comprised, is now come unto and vested in the Honorable James Bertie, of the parish of St. John the Evangelist, in the liberty of Westminster, in the county of Middlesex, Esquire, of his own Right ; and the part, share, interest and estate, of the said George, late Duke of Albemarle, of and in the same premises, is come unto and vested in the most noble Henry now Duke of Beauford, and in the said James Bertie, and the Honourable Dodington Greville, of Bulford, in the county of Wiltz, Esquire, the two surviving Devisees named in the will of the most noble Henry late Duke of Beauford, in trust for the present Duke of Beauford, and for the right honourable Charles Noell Somerset, his brother, an infant ; and the part, share, interest and estate of the said William, late Earl of Craven, of and in the same premises, is come unto and vested in the right Honourable William now Lord Craven ; and the part, share, interest and estate, of the said John late Lord Berkley, of and in the same premises, is now come unto and vested in Joseph Blake, of the Pro-

vince of South Carolina, in America, Esquire ; and the part, share, interest and estate of the said Anthony, late Lord Ashley, of and in the same premises, is now come unto and vested in Archibald Hutcheson, of the Middle Temple, London, Esquire, (in trust for John Cotton of the Middle Temple, London, Esquire,) and the part, share, interest and estate of the said late Sir John Colleton, of and in the said premises, is now come unto and vested in Sir John Colleton, of Exmouth, in the county of Devon, Baronet ; and the part, share, interest and estate of the said late Sir William Berkley, of and in the same premises, is now come unto and vested in the Honourable Henry Bertie, of Dorton, in the county of Bucks, Esquire, or in Mary Danson, of the Parish of St. Andrews, Holbourne, in the county of Middlesex, Widow, or in Elizabeth Moor, of London, Widow, some or one of them ; and the said Henry now Duke of Beauford, and the said James Bertie and Dodington Greville, as trustees in manner aforesaid, some or one of them, is or are seized in fee of and in one full undivided eighth part, (the whole into eight equal parts to be divided) of the premises, in and by the said recited letters patent, granted and comprized ; and the same James Bertie, in his own Right, is now seized in fee, or of some other estate of inheritance, of and in one other full undivided eighth part ; and each of them the said William Lord Craven, Joseph Blake, Archibald Hutcheson, as trustee for the said John Cotton, Sir John Colleton, and the said Henry Bertie, Mary Danson, and Elizabeth Moor, some or one of them, is or are respectively seized in fee, or of some other estate of inheritance, of and in one other full undivided eighth part, of and in the said Provinces, territories and premises, islands and hereditaments ; the remaining eighth part or share of and in the said Provinces, territories and premises, which formerly belonging to the said Sir George Carteret, being now vested in the right Honourable John Lord Carteret, Baron of Hawes, his majesty's Lieutenant General and Governour of the Kingdom of Ireland ; And whereas, by a Judgment or Order of the House of Lords, made the twentyseventh day of March, last past, upon the appeal of the said Mary Danson, Widow of John Danson, Esquire, deceased, from a decree of the high Court of Chancery, made the seventh day of November one thousand seven hundred and twentyone, and from a subsequent order of the fifteenth day of January, one thousand, seven hundred and twentythree, it was ordered and adjudged, that the said decree and subsequent order, complained of in the said appeal, should be reversed ; and it being offered on the part of the appellants, to pay the respondents, the said Henry Bertie, the money that he paid for the purchase of the Proprietorship, in question in the said cause, together with interest for the same, it was thereby further ordered, that the Court of Chancery should direct and cause an enquiry to be made, what was the principal sum of such purchase money, and from the time of payment thereof, to compute the interest for the same ; and on the appellants' payment of what shall be found due for such principal money and interest, to the said Henry Bertie, it was further

ordered and adjudged, That he shall convey the said Proprietorship, to her and her heirs, and also that the respondent Elizabeth Moor, should likewise by proper conveyances, at the charge of the appellants, convey all her Right to the said Proprietorship, to the appellants, and her heirs ; And whereas, since the making of the said recited several letters patent, the Lords Proprietors of the Provinces and Territories aforesaid, for the time being, have made divers grants and conveyances, under their common seal, of several Offices, and also of divers parcels of land, situate within the said Provinces and territories, to several persons, under certain quit rents, or other rents, thereby respectively reserved, and subject to several conditions, limitations or agreements, for avoiding or determining the estates of the Grantees therein mentioned, some of which may have become forfeited, and have also made divers grants of several Baronies, or large tracts of land, lying within the said Provinces or Territories, unto and for the use and benefit of several of the Lords Proprietors, or those under whom they claim, to be held and enjoyed by them and their heirs in severalty ; eight of which Baronies, so granted as aforesaid, do now remain vested in the said Henry now Duke of Beauford, or in the said James Bertie and Dodington Greville, as trustees for the purposes aforesaid, or in some or one of them ; eight other of the said Baronies in the said William Lord Craven ; six of the said Baronies in the present Sir John Colleton ; six other Baronies in the said Archibald Hutcheson, (as trustee for the said John Cotton ;) and six other Baronies in the said Joseph Blake ; each of the said Baronies containing or being mentioned or intended to contain twelve thousand acres of land, or thereabouts, except one of the said Baronies now vested in the said William Lord Craven, which contains, or is mentioned to contain eleven thousand acres of land or thereabouts ; And whereas, the said Henry, now Duke of Beauford, William, Lord Craven, James Bertie, Henry Bertie, Sir John Colleton, and Archibald Hutcheson, (who is trustee for the said John Cotton, as aforesaid,) being six of the present Lords Proprietors of the Province and territory aforesaid, have by their humble petition, to his Majesty in Council, offered and proposed to surrender to his Majesty, their said respective shares and interests, not only of and in the said Government, Franchises and Royalties, in and by the said recited letters patent granted, but also all the right and property they have in and to the soil in the aforesaid Provinces or territories, under the said several recited letters patent, or either of them ; and also did further propose to make an entire surrender to his Majesty of their right to all the lands which they hold under the said grants, made by the Lords Proprietors as aforesaid, (except only one Barony, belonging to the present Sir John Colleton, which hath been settled and improved by his son) and also all their right and interest in all lands, granted and conveyed to other persons as aforesaid, which, by not being improved within the time limited in the said grants or conveyances, or for any other reason, would revert to them, praying ; That in consideration of such surrender, his Majesty would be

pleased to direct, and to cause to be paid to each of them, the said Henry Duke of Beauford, William Lord Craven; James Bertie, Henry Bertie, Sir John Colleton, and Archibald Hutcheson, the sum of two thousand five hundred pounds apiece, without any deduction; And whereas, Samuel Wragg, of London, Merchant, being duly authorized by letter of attorney, under the hand and seal of the said Joseph Blake, bearing date the eleventh day of July, one thousand seven hundred and twentyeight, hath proposed for and on the behalf of the said Joseph Blake, to surrender and convey unto his Majesty, his heirs and successors, all the estate, right and interest of the said Joseph Blake, in and to the premises, upon payment of the like sum of two thousand five hundred pounds, to the said Joseph Blake, without any deduction; And whereas, they the said Henry, Duke of Beauford, William, Lord Craven, James Bertie, Henry Bertie, Sir John Colleton and Archibald Hutcheson, who is a trustee for the said John Cotton as aforesaid, have laid before a Committee of the Lords of his Majesty's most honourable privy council, an estimate of all the Arrears of quit rents and other rents, and sum and sums of money now due and owing to them and the said Joseph Blake, and to the said John, Lord Carteret, which estimate, as computed, amounts to the sum of nine thousand five hundred pounds; and they the said Henry, Duke of Beauford, Lord Craven, James Bertie, Henry Bertie, Sir John Colleton and Archibald Hutcheson, have likewise humbly proposed; That if his Majesty would please to allow the sum of five thousand pounds for the said arrears, (over and above the said several sums of two thousand five hundred pounds, to be paid to them respectively) they were willing to assign and make over to his Majesty, the right and title to the said arrears, and all other demands whatsoever, which they have or can have, upon the farmers, tenants, or inhabitants of the Provinces or territories aforesaid, or of any of them; And whereas, the said Samuel Wragg, for and on the behalf of the said Joseph Blake, hath proposed to assign to his Majesty, all the right and interest of the said Joseph Blake, in and to the said arrears and demands, upon the terms aforesaid; And whereas his Majesty, taking into his royal consideration the great importance of the said Provinces and territories, to the trade and navigation of this kingdom, and being desirous to promote the same, as well as the welfare and security of the said Provinces and territories, by taking them under the more immediate Government of his Majesty, his heirs and successors, hath been graciously pleased to accept of the said several proposals, and to agree to the same, with such variations as are hereinafter mentioned; And whereas, from the nature of the respective estates and interests, proposed and agreed to be surrendered to his Majesty as aforesaid, great difficulties may arise in the manner of conveying the same, and it is just and necessary that the parts and shares of the said Provinces and territories, so proposed and agreed to be surrendered, should be secured, to his Majesty, his heirs and successors, which cannot effectually be done and attained without the authority of Parliament; *Be it enacted*, by the

King's most excellent Majesty, by and with the consent and advice of the Lords spiritual and temporal, and Commons in this present Parliament, and by the authority of the same, that all those seven undivided eighth parts, (the whole into eight equal parts or shares to be divided) and all other the part or share, parts or shares, interest and estates of them the said Henry Duke of Beauford, William Lord Craven, James Bertie, Dodington Greville, Henry Bertie, Mary Danson and Elizabeth Moor, Sir John Colleton, Archibald Hutcheson, as trustee for the said John Cotton, and Joseph Blake, and each of them, of and in the aforesaid Provinces or territories, called Carolina, and all and singular the royalties, franchises, lands, tenements, and hereditaments and premises, in and by the said several recited letters patent, or either of them, granted or mentioned or intended to be granted, by his said late Majesty, King Charles the second, to the said Edward, Earl of Clarendon, George, Duke of Albemarle, William, Earl of Craven, John, Lord Berkley, Anthony, Lord Ashley, Sir George Carteret, Sir John Colleton, deceased, and Sir William Berkley, and their heirs and assigns, as aforesaid, with their and every of their rights, members, and appurtenances, and also all such powers, liberties, authorities, jurisdictions, preeminences, licenses, and privileges, as they the said Henry, Duke of Beauford, William, Lord Craven, James Bertie, Dodington Greville, Henry Bertie, Mary Danson, Elizabeth Moor, the present Sir John Colleton, the said Archibald Hutcheson, as trustee for the said John Cotton, and Joseph Blake, every or any of them, can or may have, hold, use, exercise or enjoy, by virtue of, or under the said recited letters patent, or either of them, and also all and singular Baronies, tracts and parcels of land, tenements and hereditaments, which they the said Henry, Duke of Beauford, William, Lord Craven, James Bertie, Dodington Greville, Henry Bertie, Mary Danson and Elizabeth Moor, the present Sir John Colleton, the said Archibald Hutcheson, as trustee for the said John Cotton, and Joseph Blake, any or either of them, are or is seized or possessed of, or entitled unto, within the said Provinces or territories; except all such tracts of land, tenements and hereditaments, as have been at any time before the first day of January, one thousand, seven hundred and twentyseven, granted or conveyed by, or comprised in any grants, deeds, instruments or conveyances, under the common seal of the said Lords and Proprietors, either in England, or in the Provinces aforesaid; and also, except all such plantations and lands as are now in the possession of the said Joseph Blake, his under tenants or assigns, by virtue of grants formerly made by the said Lords Proprietors of the said Provinces, for the time being, to other persons, and since conveyed to, or vested in the said Joseph Blake; And also, except all that Barony and tract of land containing twelve thousand acres or thereabouts, the possession whereof hath some time since been delivered by the present Sir John Colleton, unto Peter Colleton, Esquire, his second son; and all that other Barony or tract of land, containing twelve thousand acres or thereabouts, some time since conveyed by Sir John

Tyrrel, Baronet, (formerly owner of the said eighth part or share now belonging to the said Archibald Hutcheson, as trustee for the said John Cotton,) to William Wight, Esq. and his heirs: Provided, that the before mentioned exceptions or any of them, shall not include or extend to any lands, comprised in any grant or grants, made either in England or Carolina, under the common seal of the Lords Proprietors for the time being, which since the making such grant or grants, have become forfeited by virtue of any clauses contained therein, or to any of the Baronies, herein before recited or mentioned to be still remaining and vested in the said Henry, Duke of Beauford, and in the said James Bertie and Dodington Greville, as trustees, some or one of them, and in the said William, Lord Craven, the present Sir John Colleton, and the said Archibald Hutcheson, as trustee for the said John Cotton respectively, nor to any rents, services, seignories, or rights to escheats, reserved upon, or incident to any such grant or grants, or any lands or estates thereby granted, all such forfeited lands, and all such rents, seignories, and rights of escheat, reserved upon or incident to any such grant or grants, or any lands and estates thereby granted, and also the Baronies last before mentioned, being hereby intended to be vested in the persons, and for the purposes hereinafter mentioned, and the reversion and reversions, remainder and remainders, yearly, and other rents, issues and profits, of the same parts or shares, Baronies, Lands, tenements, hereditaments and premises, so as aforesaid proposed and agreed to be surrendered to his Majesty, and of every part and parcel thereof; and also all the estate, title, interest, trust, property, right of action, right of entry, claim and demand whatsoever, of them the said Henry, Duke of Beauford, William, Lord Craven, James Bertie, Dodington Greville, Henry Bertie, Mary Danson and Elizabeth Moor, the present Sir John Colleton, the said Archibald Hutcheson, John Cotton and Joseph Blake, and each of them, of, in, unto or out of the same, every or any part and parcel thereof, by virtue of the said several recited letters patent, or either of them, or of any grant, assignment, conveyance, or assurance, made under, or by force of the same recited letters patent, or either of them, or otherwise howsoever, shall, from and after the first day of June, one thousand seven hundred, and twentynine, be vested and settled, and the same is hereby vested and settled, in and upon Edward Bertie of Gray's Inn, in the county of Middlesex, Samuel Horsey of the Parish of St. Martins in the fields, in the county of Middlesex, Henry Smith of Caversham, in the county of Oxon, and Alexius Clayton, of the Middle Temple, London, Esquires, to the only use of them the said Edward Bertie, Henry Smith, Samuel Horsey, and Alexius Clayton, their heirs and assigns, freed and discharged and absolutely acquitted, exempted and indemnified, of and from all estates, uses, trusts, entails, reversions, remainders, limitations, charges and incumbrances, titles, claims, and demands whatsoever; But nevertheless upon trust, and to the intent that they the said Edward Bertie, Samuel Horsey, Henry Smith, and Alexius Clayton, and the survivor

or the survivors of them, and the heirs of such survivor, upon payment by his Majesty, his heirs or successors, to the said Edward Bertie, Samuel Horsey, Henry Smith, and Alexius Clayton, or to the survivors or to the survivor of them, or the executors or administrators of such survivor, of the sum of seventeen thousand, five hundred pounds, free and clear of all deductions, on or before the twenty-ninth day of September, in the year of our Lord, one thousand, seven hundred and twenty-nine, shall and do, by deed, indented, and to be enrolled in his Majesty's High Court of Chancery, surrender, convey and assure unto his Majesty, his heirs and successors, all and singular, the said seven eighth parts or shares, (the whole into eight equal parts to be divided) and all other the parts or shares, interest and estates, of and in the aforesaid Provinces or territories, and all and singular the premises, hereby vested in them the said Edward Bertie, Samuel Horsey, Henry Smith, and Alexius Clayton, and their heirs as aforesaid, which said sum of seventeen thousand five hundred pounds, they the said Edward Bertie, Samuel Horsey, Henry Smith and Alexius Clayton, the survivors or the survivor of them, or the executors and administrators of such survivor, shall immediately after receipt thereof, pay, apply, and dispose of in manner hereinafter mentioned; That is to say, the sum of two thousand five hundred pounds, part thereof, to the said Jame Bertie and Dodington Greville, trustees as aforesaid, or to the survivor of them, or to the executors or administrators of such survivor; two thousand five hundred pounds, other part thereof, to the said William, Lord Craven, his executors or administrators; two thousand five hundred pounds, other part thereof, to the said James Bertie, of his own right, his executors or administrators; two thousand five hundred pounds, other part thereof, unto such person or persons, and in such shares and proportions as the same, according to the tenor, purport and true meaning of the said order or judgment of the House of Lords, ought to be paid and applied; two thousand five hundred pounds, other part thereof, to the said Sir John Colleton, his executors or administrators; two thousand five hundred pounds, other part thereof, to the said John Cotton, his executors or administrators; and two thousand five hundred pounds, the residue thereof, to the said Samuel Wragg, for the use of the said Joseph Blake, or to the said Joseph Blake, his executors or administrators.

And be it further enacted, by the authority aforesaid, that from and after payment of the said sum of seventeen thousand five hundred pounds, to the said Edward Bertie, Samuel Horsey, Henry Smith, and Alexius Clayton, the survivors or the survivor of them, or the executors or administrators of such survivor, and after the execution of the said surrender and conveyance to his Majesty, his heirs and successors, hereby directed to be made as aforesaid, his Majesty, his heirs and successors, shall have, hold and enjoy, all and singular the said seven eighth parts or shares, (the whole into eight equal parts to be divided) and all other the parts or shares, interests and estates, of and in the aforesaid Provinces or

territories, and all and singular the premises hereby vested in them the said Edward Bertie, Samuel Horsey, Henry Smith and Alexius Clayton, and their heirs as aforesaid, freed and discharged, and absolutely acquitted, exempted and indemnified of, from and against all estates, uses, trusts, intails, reversions, remainders, limitations, charges, incumbrances, titles, claims and demands whatsoever.

And be it further enacted, by the authority aforesaid, that seven eighth parts, (the whole into eight equal parts to be divided) of all and every the said arrears of quit rents, and other rents, sum and sums of money, debts, duties, accounts, reckonings, claims and demands whatsoever, now due and owing to them the said Henry, Duke of Beauford, or the said James Bertie and Dodington Greville, trustees as aforesaid, and to the said John, Lord Carteret, William, Lord Craven, James Bertie in his own right, Henry Bertie, Mary Danson and Elizabeth Moor, Sir John Colleton, Archibald Hutcheson, John Cotton or Joseph Blake, or any of them, (whether the same be more or less, than is computed as aforesaid) and all and every other parts or shares, of the said Henry, Duke of Beauford, James Bertie and Dodington Greville, trustees as aforesaid, William, Lord Craven, James Bertie in his own right, Henry Bertie, Mary Danson and Elizabeth Moor, Sir John Colleton, Archibald Hutcheson, John Cotton and Joseph Blake, or any of them, of or in the said arrears, or which they or any of them, their or any of their heirs, executors, administrators or assigns, now have, or can or may have, claim, challenge or demand of or from the farmers, tenants and inhabitants, of the Provinces or territories aforesaid, or any part thereof, or any of them, shall, from and after the said first day of June, in the year of our Lord, one thousand seven hundred and twentynine, be vested in the said Edward Bertie, Samuel Horsey, Henry Smith and Alexius Clayton, the survivors and survivor of them, and the executors or administrators of such survivor, upon trust, and to the intent that they the said Edward Bertie, Samuel Horsey, Henry Smith, and Alexius Clayton, the survivors or the survivor of them, and the executors and administrators of such survivor, shall, upon payment by his Majesty, his heirs and successors, of the sum of five thousand pounds of lawful money of Great Britain, free and clear of all deductions, on or before the said twentyninth day of September, in the said year, to the said Edward Bertie, Samuel Horsey, Henry Smith and Alexius Clayton, the survivors or the survivor of them, or the executors or administrators of such survivor, by deed indented and to be enrolled in his Majesty's High Court of Chancery, grant and assign to his Majesty, his heirs and successors, all and every the said seven eighth parts or shares, (the whole into eight equal parts or shares to be divided) and all other parts or shares of the said arrears, hereby vested in them the said Edward Bertie, Samuel Horsey, Henry Smith, and Alexius Clayton.

And whereas, the said Henry, Duke of Beauford, William, Lord Craven, James Bertie, Henry Bertie, Mary Danson, Dodington Greville, Sir John Colleton, John Cotton and Joseph

Blake, are desirous that the said sum of five thousand pounds should be applied in manner hereinafter mentioned,

Be it further enacted, by the authority aforesaid, that the sum of five thousand pounds, after receipt thereof, shall be issued and paid by the said Edward Bertie, Samuel Horsey, Henry Smith and Alexius Clayton, or the survivors and survivor of them, and the executors and administrators of such survivor, to such of the officers, agents or servants of the Lords Proprietors, or to such other person or persons, and for such purposes as the said Henry, Duke of Beauford, William, Lord Craven, James Bertie, Henry Bertie, Mary Danson, Sir John Colleton, John Cotton and Joseph Blake, their executors or administrators, or any four or more of them, (the executors or administrators of each of them, to be accounted only as one) shall by writing or writings, under their hands, from time to time direct and appoint.

And be it further enacted, by the authority aforesaid, that from and after payment of the said sum of five thousand pounds, unto the said Edward Bertie, Samuel Horsey, Henry Smith and Alexius Clayton, the survivors or the survivor of them, or the executors or administrators of such survivor, and after the execution of the said grant and assignment of the said parts or shares, of the said arrears, hereby directed to be made as aforesaid, his Majesty, his heirs and successors, shall and may have, receive and enjoy the said seven eighth parts or shares (the whole into eight equal parts to be divided) and all and every other parts and shares of the said arrears of quit rents, and other rents, sum and sums of money, debts, duties, accounts, reckonings, claims and demands, hereby vested in the said Edward Bertie, Samuel Horsey, Henry Smith and Alexius Clayton, and shall and may have, use and pursue such and the like remedies for recovery thereof, as fully and effectually as the said Henry, Duke of Beauford, William, Lord Craven, James Bertie, Henry Bertie, Mary Danson, Dodington Greville, Sir John Colleton, Archibald Hutcheson, John Cotton and Joseph Blake, any or either of them, might have had, used or pursued, if this act had not been made.

And be it further enacted, by the authority aforesaid, That the receipt or receipts of the said Edward Bertie, Samuel Horsey, Henry Smith and Alexius Clayton, the survivors or the survivor of them, or executors or administrators of such survivor, under their hands, or his hand or hands respectively, shall be a sufficient discharge to his Majesty, his heirs and successors, of and for the said several sums of seventeen thousand five hundred pounds, and five thousand pounds, or so much thereof or of either of them, as such receipts or receipt shall be given for ; and that his Majesty, his heirs and successors, upon and after such receipts or receipt, given as aforesaid, shall be absolutely acquitted and discharged of and from the said monies, and shall not be answerable or accountable for any loss, non-application or misapplication of the said money, or of any part thereof.

Provided always, and it is hereby declared and enacted, by the authority aforesaid, that the receipt or receipts of the said James

Bertie, or Dodington Greville, or the survivor of them, his executors or administrators, under his or their hand or hands respectively, shall be a sufficient discharge to the said Edward Bertie, Samuel Horsey, Henry Smith, and Alexius Clayton, their executors or administrators, for the said sum of two thousand five hundred pounds, payable to them for the said eighth part or share of the said Provinces, territories, royalties, lands and hereditaments, which was vested in the said Henry late Duke of Beauford, and the said sum of two thousand five hundred pounds, shall be and remain subject to the trusts reposed in them by the will of the said late Duke, or otherwise, concerning the eighth part or share, but the said Edward Bertie, Samuel Horsey, Henry Smith and Alexius Clayton, their heirs, executors, or administrators, shall not be answerable or accountable for any loss or misapplication thereof, or of any part thereof.

Provided also, and it is hereby declared and enacted, That the said Edward Bertie, Samuel Horsey, Henry Smith and Alexius Clayton, shall not, nor shall any of them, or the executors or administrators of any of them, be answerable or accountable for any money to be received by virtue of or under the trusts hereby reposed in them, any otherwise than each person, his executors or administrators, for such sum or sums of money as he or they shall respectively actually receive, and none of them shall be answerable or accountable for the acts, receipts, neglects, or defaults of the other of them; and also that they, the said Edward Bertie, Samuel Horsey, Henry Smith and Alexius Clayton, their executors or administrators, shall and may, out of the money hereby directed to be paid to them as aforesaid, retain and reimburse themselves for all costs, charges, damages and expenses, that they respectively shall sustain or be put unto, in and about the execution of the trusts hereby in them reposed.

And whereas there is due and owing to the King's most excellent Majesty, for arrears of rents reserved by the said several recited letters patent, or one of them, several sums of money, computed to amount to three hundred pounds or upwards; *Now it is hereby further enacted and declared,* by the authority aforesaid, that the said Henry, Duke of Beauford, William, Lord Craven, James Bertie, Dodington Greville, Henry Bertie, Mary Danson, Elizabeth Moor, the present Sir John Colleton, Archibald Hutcheson, John Cotton and Joseph Blake, and every of them, their and every of their heirs, executors and administrators, respectively, from and immediately after the said twentieth day of September, one thousand seven hundred and twentynine, (in case the said sums of seventeen thousand five hundred pounds, and five thousand pounds, shall then be paid and satisfied, and the sale hereby intended shall be then compleated) shall be, and are hereby fully and absolutely acquitted and discharged of and from all arrears of rent whatsoever, due or owing upon or by virtue of the said recited letters patent, or either of them.

Provided always, and it is hereby further enacted and declared, by the authority aforesaid, that if his Majesty, his heirs and succes-

sors, do not or shall not, on or before the said twentieth day of September, one thousand seven hundred and twenty-nine, well and truly pay or cause to be paid, both the several sums of seventeen thousand five hundred pounds, and five thousand pounds in manner aforesaid, and according to the true meaning of this act, that then they the said Edward Bertie, Samuel Horsey, Henry Smith and Alexius Clayton, or the survivors or survivor of them, or the heirs, executors or administrators of such survivor, shall not make such surrender, assignment, or conveyance of the said seven eighth parts or shares of the said Province or territories, and of the said arrears, or either of them, to his Majesty, his heirs or successors, as hereby is directed, but shall from and after the said twentieth day of September, one thousand seven hundred and twenty-nine, stand and be seized of and possessed of all and singular the premises hereby in them vested, to the only proper use and behoof of them, the said Henry, Duke of Beauford, William, Lord Craven, James Bertie, Dodington Greville, Henry Bertie, Mary Danson, Elizabeth Moor, the present Sir John Colleton, John Cotton and Joseph Blake, and every of them, and of their and every of their heirs, executors, administrators and assigns, in such shares and proportions, and according to such respective rights and interests as they severally had, or could have been entitled to, in and unto the same premises, in case this act had never been made, and to and for no other use or trust, intent or purpose whatsoever.

Saving and reserving to all and every person or persons, bodies politick and corporate, their heirs, successors, executors, administrators and assigns, other than and except the said Henry, Duke of Beauford, William, Lord Craven, James Bertie, Dodington Greville, Henry Bertie, Mary Danson, Elizabeth Moor, Sir John Colleton, Archibald Hutcheson, John Cotton and Joseph Blake, their respective heirs, executors or administrators, and the heirs of their respective bodies, and all and every person and persons, claiming or to claim any estate and interest in the premises, or any part thereof, in remainder or reversion, expectant upon or after the determination of any estate tail, vested in them the said Henry, Duke of Beauford, William, Lord Craven, James Bertie, Dodington Greville, Henry Bertie, Mary Danson, Elizabeth Moor, Sir John Colleton, Archibald Hutcheson, John Cotton and Joseph Blake, or any of them, and all and every person and persons claiming, or to claim any estate or interest in the premises, or any part thereof, by or under the title of the said Henry, late Duke of Beauford, deceased, such satisfaction and recompense as is hereinafter mentioned, for all such estate, right, title, interest, property, claim or demand whatsoever, in, to or out of the premises, or any part thereof, as they or any of them, now have, or might have had or been entitled to, in case this act had never been made.

Provided always, and be it further enacted, by the authority aforesaid, That if any person or persons (other than and except the persons herein before excepted) who now have or shall have any estate, right, title, interest, claim or demand, either in law or in equity, of, in, to or out of the premises herein vested as afore-

said, or any part thereof, shall, within the space of seven years after the same shall be conveyed unto and vested in his Majesty, his heirs and successors as aforesaid, commence and prosecute any action or suit either in law or equity, by petition of right, English bill or otherwise, against his Majesty, his heirs or successors, or the proper officer or officers on his or their behalf, wherein such persons might or ought to have recovered the premises hereby vested as aforesaid, or any part thereof, or any estate, interest or demand, in or out of the same, the court wherein such suit or action shall be commenced or depending, shall and may adjudge or decree, that such person or persons shall recover against his Majesty, his heirs or successors, such sum or sums of money, as his or their estate, interest or demand in or about the premises hereby vested as aforesaid, shall by the same court be valued at and determined to amount unto, in full satisfaction for such estate, interest or demand; in making which valuation the said court shall estimate one full eighth part of the premises hereby vested as aforesaid, to be of the value of two thousand five hundred pounds, and no more, and shall rate and ascertain the value of such estate, interest or demand, in proportion thereunto.

Saving and reserving always to the said John, Lord Carteret, his heirs, executors, administrators and Assigns, all such estate, right, title, interest, property, claim and demand whatsoever, in, unto or out of, one eighth part or share of the said Provinces or territories, with all and singular the rights, members and appurtenances thereof, and of, in and to one eighth part or share of all arrears of quit rents, and other rents, sum and sums of money, debts, duties, accounts, reckonings, claims and demands whatsoever, now due and owing to the present Lords Proprietors of the said Provinces and territories, and all such other rights, titles, priviledges and powers whatsoever, as the said John, Lord Carteret, his heirs, executors or administrators now have or might have had or been entitled unto, in case this act, and the conveyance herein before directed to be made to his Majesty, his heirs and successors, or either of them, had not been, or should not be made.

Saving also to all and every person and persons having or lawfully claiming any office or offices, place or places, employment or employments, by or under any grant or grants thereof made before the said first day of January, one thousand seven hundred and twentyseven, under the common seal of the said Lords Proprietors, either in England or in the Provinces aforesaid, all such estate, right, title and interest in or to such office or offices, place and places, employment and employments, as they or any of them now have or might have had, or been entitled unto, in case this Act had never been made.

MAGNA CARTA OF KING JOHN.

FIFTEENTH DAY OF JUNE, IN THE SEVENTEENTH YEAR OF THE
KING'S REIGN, A. D. 1215.

JOHN, by the Grace of God, King of England, Lord of Ireland, Duke of Normandy, and Aquitain, and Earl of Anjou : To the Archbishops, Bishops, Abbots, Earls, Barons, Justiciaries of the Forests, Sheriffs, Governors, Officers, and to all Bailiffs, and other his faithful subjects, greeting. Know ye, That we, in the presence of God, and for the health of our soul, and of the souls of our ancestors and heirs, and to the honour of God, and the exaltation of Holy Church, and amendment of our Kingdom, by Advice of our venerable Fathers, Stephen, Archbishop of Canterbury, Primate of all England, and Cardinal of the Holy Roman Church ; Henry, Archbishop of Dublin, William, Bishop of London, Peter of Winchester, Jocelin of Bath and Glastonbury, Hugh of Lincoln, Walter of Worcester, William of Coventry, Benedict of Rochester, Bishops ; and Master Pandulph, the Pope's subdeacon and ancient servant, Brother Aymerick, Master of the Temple in England, and the Noble Persons, William Marescall, Earl of Pembroke, William, Earl of Salisbury, William, Earl of Warren, William, Earl of Arundel, Alan de Galway, Constable of Scotland, Warin Fitz Gerald, Peter Fitz Herebert, and Hubert de Burghe, Senechal of Poictou, Hugo de Nevill, Matthew Fitz Herebert, Thomas Basset, Alan Basset, Philip de Albine, Robert de Roppele, John Marescall, John Fitz Hugh, and others our Liegemen ; have in the first place granted to God, and by this our present Charter, confirmed for us and our heirs forever.

I.

That the Church of England shall be free, and enjoy her whole rights and liberties inviolable. And we will have them so to be observed ; which appears from hence that the freedom of elections, which was reckoned most necessary for the Church of England, of our own free will and pleasure, we have granted and confirmed by our Charter, and obtained the confirmation of from Pope Innocent the Third, before the discord between us and our Barons ; which Charter we shall observe, and do will it to be faithfully observed by our heirs forever.

II.

We have also granted to all the freemen of our Kingdom, for us and our heirs forever, all the underwritten Liberties, to have and to hold to them and their heirs, of us and our heirs.

III.

If any of our Earls or Barons, or others who hold of us in chief, by military service, shall die, and at the time of his death his heir shall be of full age, and owe a relief, he shall have his inheritance by the ancient relief; that is to say, the heir or heirs of an Earl, for a whole Earl's barony, by a hundred pounds; the heir or heirs of a Baron, for a whole barony, by a hundred pounds; the heir or heirs of a Knight, for a whole Knight's fee, by a hundred shillings at most; and he that oweth less shall give less, according to the ancient custom of fees.

IV.

But if the heir of any such shall be under age, and shall be in Ward, when he comes of age he shall have his inheritance without relief or without fine.

V.

The Warden of the land of such heir, who shall be under age, shall take of the land of such heir only reasonable issues, reasonable customs, and reasonable services; and that without destruction or waste of the men or things; and if we shall commit the guardianship of those lands to the Sheriff, or any other who is answerable to us for the issues of the land, and if he shall make destruction and waste upon the Ward lands, we will compel him to give satisfaction, and the land shall be committed to two lawful and discreet tenants of that fee, who shall be answerable for the issues to us, or to him whom we shall assign. And if we shall give or sell the Wardship of any such lands to any one, and he makes destruction or waste upon them, he shall lose the Wardship, which shall be committed to two lawful and discreet tenants of that fee, who shall in like manner be answerable to us, as hath been said.

VI.

But the Warden, so long as he shall have the Wardship of the land, shall keep up and maintain the houses, parks, warrens, ponds, mills and other things pertaining to the land, out of the issues of the same land; and shall restore to the heir, when he comes of full age, his whole land stocked with ploughs and carriages, according as the time of vainage shall require, and the issues of the land can reasonably bear.

VII.

Heirs shall be married without disparagement, so as that before matrimony shall be contracted, those who are nearest to the heir in blood shall be made acquainted with it.

VIII.

A widow, after the death of her husband, shall forthwith, and without any difficulty, have her marriage and her inheritance ; nor shall she give anything for her dower or her marriage, or her inheritance, which her husband and she held at the day of his death ; and she may remain in the capital messuage or mansion house of her husband, forty days after his death, within which term her dower shall be assigned.

IX.

No widow shall be distrained to marry herself, so long as she has a mind to live without a husband. But yet she shall give security that she will not marry without our assent, if she holds of us, or without the consent of the Lord of whom she holds, if she holds of another.

X.

Neither we nor our Bailiffs shall seize any land or rent for any debt, so long as there shall be chattels of the debtor's upon the premises, sufficient to pay the debt. Nor shall the sureties of the debtor be distrained, so long as the principal debtor is sufficient for the payment of the debt.

XI.

And if the principal debtor fail in the payment of the debt, not having wherewithal to discharge it, then the sureties shall answer the debt ; and if they will, they shall have the lands and rents of the debtor, until they shall be satisfied for the debt which they paid for him : unless the principal debtor can show himself acquitted thereof, against the said sureties.

XII.

If any one have borrowed anything of the Jews, more or less, and dies before the debt be satisfied, there shall be no interest paid for that debt, so long as the heir is under age, of whomsoever he may hold. And if the debt falls into our hands, we will take only the chattel mentioned in the charter or instrument.

XIII.

And if any one shall die indebted to the Jews, his wife shall have her dower, and pay nothing of that debt ; and if the deceased left children under age, they shall have necessaries provided for them according to the Tenement (or real estate) of the deceased ; and out of the residue the debt shall be paid ; saving, however, the service of the Lords. In like manner let it be with debts due to other persons than the Jews.

XIV.

No scutage or aid shall be imposed in our Kingdom, unless by the Common Council of our Kingdom, except to redeem our per-

son, and make our eldest son a Knight, and once to marry our eldest daughter ; and for this there shall only be paid a reasonable Aid.

XV.

In like manner it shall be concerning the Aids of the City of London ; and the City of London shall have all its ancient liberties and free customs, as well by land as by water.

XVI.

Furthermore, we will and grant, that all other cities and boroughs, and towns, and ports, shall have all their liberties and free customs ; and shall have the Common Council of the Kingdom concerning the assessment of their Aids, except in the three cases aforesaid.

XVII.

And for the assessing of scutages we shall cause to be summoned the Archbishops, Bishops, Abbots, Earls, and great Barons of the Realm, singly by our letters.

XVIII.

And furthermore we shall cause to be summoned in general by our sheriffs and bailiffs, all others who hold of us in chief, at a certain day, that is to say forty days before the meeting, at least, to a certain place ; and in all letters of such summons we will declare the cause of the summons.

XIX.

And summons being thus made, the business shall proceed on the day appointed, according to the advice of such as shall be present, although all that were summoned come not.

XX.

We will not for the future grant to any one, that he may take Aid from his own free tenants, unless to redeem his body, and to make his eldest son a Knight, and once to marry his eldest daughter ; and for this there shall only be paid a reasonable Aid.

XXI.

No man shall be distrained to perform more service for a Knight's Fee, or other Free Tenement, than is due from thence.

XXII.

Common Pleas shall not follow our Court, but shall be holden in some certain place. Tryals upon the Writs of Novel Disseisin, and of Mort d'Ancestor, and of Darreine Presentment, shall be taken but in their proper counties, and after this manner : We, or if we should be out of the Realm, our Chief Justiciary, shall send two Justiciaries through every county four times a year : who with the four Knights chosen out of every Shire, by the People,

shall hold the said Assizes in the County, on the day and at the place appointed.

XXIII.

And if any matters cannot be determined on the day appointed to hold the Assizes in each County, so many of the Knights and Freeholders as have been at the Assizes aforesaid, shall be appointed to decide them, as is necessary, according as there is more or less business.

XXIV.

A freeman shall not be amerced for a small fault, but according to the degree of the fault; and for a great crime in proportion to the heinousness of it: Saving to him his contenment, and after the same manner a merchant, saving to him his merchandise.

XXV.

And a villain shall be amerced after the same manner, saving to him his Wainage, if he falls under our mercy; and none of the aforesaid Amerciements shall be assessed but by the Oath of honest men of the neighbourhood.

XXVI.

Earls and Barons shall not be amerced but by the Peers, and according to the quality of the offence.

XXVII.

No ecclesiastical person shall be amerced, but according to the proportion aforesaid, and not according to the value of his Ecclesiastical benefice.

XXVIII.

Neither a town, nor any person, shall be distrained to make bridges over rivers, unless that anciently and of right they are bound to do it.

XXIX.

No Sheriff, Constable, Coroners, or other our Bailiffs, shall hold Pleas of the Crown.

XXX.

All Counties, Hundreds, Wapentakes, and Trethings, shall stand at the old Ferm, without any increase, except in our Demesne Lands.

XXXI.

If any one that holds of us a Lay Fee, dies, and the sheriff or our Bailiff show our Letters Patents of Summons concerning the debt due to us from the deceased; it shall be lawful for the Sheriff or our Bailiff to attach and register the Chattles of the deceased found upon his Lay Fee, to the value of the debt, by the view of lawful men, so as nothing be removed until our whole debt be paid;

and the rest shall be left to the Executors to fulfil the Will of the deceased ; and if there be nothing due from him to us, all the Chattles shall remain to the deceased, saving to his Wife and Children their reasonable shares.

XXXII.

If any Freeman dies Intestate, his Chattles shall be distributed by the hands of his nearest Relations and Friends, by the view of the Church, saving to every one his debts which the Deceased owed.

XXXIII.

No Constable or Bailiff of ours shall take Corn or other Chattles of any man, unless he presently gives him money for it, or hath respite of Payment from the seller.

XXXIV.

No Constable shall distrain any Knight to give money for Castle Guard, if he himself shall do it in his own Person, or by another able man, in case he shall be hindered by any reasonable cause.

XXXV.

And if we shall lead him, or if we shall send him into the Army, he shall be free from Castle Guard, for the time he shall be in the Army by our command.

XXXVI.

No Sheriff or Bailiff of ours, or any other, shall take Horses or Carts of any for Carriage.

XXXVII.

Neither shall we or our Officers, or others, take any man's Timber for our Castles, or other uses, unless by the consent of the owner of the Timber.

XXXVIII.

We will retain the Lands of those that are convicted of Felony, but one Year and a Day, and then they shall be delivered to the Lord of the Fee.

XXXIX.

All Wears for the time to come shall be demolished in the rivers of Thames and Medway, and throughout all England, except upon the Sea Coast.

XL.

The Writ which is called Præcipe, shall not for the future, be granted to any one of any tenement, whereby a Free man may lose his cause.

XLI.

There shall be one measure of Wine, and one of Ale, through our whole Realm, and one measure of Corn, that is to say the London Quarter ; and one Breadth of Dyed Cloth and Russets and Haberjects, that is to say, Two Ells within the List ; and the Weights shall be as the Measures.

XLII.

From henceforward nothing shall be given or taken for a Writ of Inquisition, from him that desires an Inquisition of Life or Limb, but shall be granted gratis, and not denied.

XLIII.

If any one holds of us by Fee Farm, or Socage, or Burgage, and holds Lands of another by Military service, we will not have the Wardship of the Heir or Land, which belongs to another man's Fee, by reason of what he holds of us by Fee Farm, Socage, or Burgage : Nor will we have the Wardship of the Fee Farm, Socage, or Burgage, unless the Fee Farm is bound to perform Military service.

XLIV.

We will not have the Wardship of an Heir, nor of any land which he holds of another by Military service, by reason of any Petit-Serjeanty he holds of us, as by the service of giving us Arrows, Daggers, or the like.

XLV.

No Bailiff for the future shall put any man to his Law, upon his single accusation, without credible witnesses produced to prove it.

XLVI.

No Freeman shall be taken, or imprisoned, or disseised, or outlawed, or banished, or any ways destroyed ; nor will we pass upon him, or commit him to prison, unless by the legal Judgement of his Peers, or unless by the Law of the Land.

XLVII.

We will sell to no man, we will deny no man, or defer Right or Justice.

XLVIII.

All Merchants shall have safe and secure conduct to go out of and to come into England, and to stay there, and to pass as well by Land as by Water, to buy and sell by the antient and allowed customs, without any evil Toll, except in time of War, or when they shall be of any Nation in War with us.

XLIX.

And if there shall be found any such in our Land in the beginning of a War, they shall be attached without damage to their bodies or goods, until it may be known unto us or our Chief Justiciary, how our Merchants be treated in the Nation at War with us ; and if ours be safe there, theirs shall be safe in our Lands.

L.

It shall be lawfull for the time to come, for any one to go out of our Kingdom, and return safely and securely by Land or by Water, saving his allegiance to us ; unless in time of War, by some short space for the benefit of the Kingdom, except Prisoners and Outlaws according to the Law of the Land, and People in War with us, and Merchants who shall be in such condition as is above mentioned.

LI.

If any man holds of any Escheat, as of the Honour of Walingford, Nottingham, Bologne, Lancaster, or of other Escheats which are in our hands, and are Baronies, and dies, his heir shall not give any other relief, or perform any other service to us than he would to the Baron, if the Barony were in possession of the Baron ; we will hold it after the same manner the Baron held it.

LII.

Those men who dwell without the forest, from henceforth shall not come before our Justiciaries of the forest upon summons, but such as are impleaded or are pledges for any that were attached for something concerning the Forest.

LIII.

We will not make any Justiciaries, Constables, Bailiffs or Sheriffs but what are knowing in the Laws of the Realm, and are disposed duly to observe it.

LIV.

All Barons who are founders of Abbies, and have Charter of the Kings of England for the Advowson, or are entitled to it by antient tenure may have the custody of them, when void, as they ought to have.

LV.

All woods that have been taken into the forests, in our own time, shall forthwith be laid out again, and the like shall be done with the rivers that have been taken or fenced in by us, during our reign.

LVI.

All evil customs concerning Forests, Warrens, and Forresters, Warreners, Sheriffs and their Officers, Rivers and their Keepers,

shall forthwith be enquired into in each county, by twelve Knights of the same Shire, chosen by the most creditable Persons in the same County, and upon oath; and within forty days after the said Inquest, be utterly abolished, so as never to be restored.

LVII

We will immediately give up all hostages and engagements, delivered unto us by our English subjects as securities for their keeping the peace, and yielding us faithful service.

LVIII.

We will entirely remove from our Bailiwicks the relations of Gerard de Athyes, so as that for the future they shall have no Bailiwick in England. We will also remove Engelard de Cygony, Andrew, Peter, and Gyon de Canceles, Gyon de Cygony, Geoffry de Martyn and his brothers, Philip Mark and his brothers, and his nephew Geoffrey, and their whole Retinue.

LIX.

And as soon as Peace is restored, we will send out of the kingdom all foreign soldiers, crossbowmen, and stipendiaries, who are come with horses and arms, to the injury of our people.

LX.

If any one hath been dispossessed, or deprived by us without the legal judgment of his Peers, of his lands, castles, liberties or right, we will forthwith restore them to him; and if any dispute arises upon this head, let the matter be decided by the five and twenty Barons hereafter mentioned, for the preservation of the peace.

LXI.

As for all those things, of which any person has without the legal judgment of his Peers, been dispossessed or deprived, either by King Henry our Father, or our brother King Richard, and which we have in our hands, or are possessed by others, and we are bound to warrant and make good, we shall have a respite till the Term usually allowed the Croises; excepting those things about which there is a suit depending, or whereof an Inquest hath been made by our Order, before we undertook the Crusade. But when we return from our Pilgrimage, or if we do not perform it, we will immediately cause full justice to be administered therein.

LXII.

The same respite we shall have for disafforesting the Forests, which Henry our Father, or our brother Richard have afforested; and for the Wardship of lands which are in another's fee, in the same manner as we have hitherto enjoyed these Wardships, by reason of a fee held of us by Knight's service, and for the Abbies founded in any other fee than our own, in which the Lord of the fee claims a right: And when we return from our Pilgrim-

mage, or if we should not perform it, we will immediately do full justice to all the complainants in this behalf.

LXIII.

No man shall be taken or imprisoned upon the appeal of a woman, for the death of any other man than her husband.

LXIV.

All unjust and illegal fines, and all Amerciaments, imposed unjustly and contrary to the law of the land, shall be entirely forgiven, or else left to the decision of the five and twenty Barons hereafter mentioned for the preservation of the peace, or of the major part of them, together with the foresaid Stephen Archbishop of Canterbury, if he can be present, and others whom he shall think fit to take along with him ; And if he cannot be present, the business shall nevertheless go on without him ; but so that, if one or more of the five and twenty Barons aforesaid be plaintiffs in the same cause, they shall be set aside as to what concerns this particular affair, and others be chosen in their room out of the said five and twenty, and sworn by the rest to decide that matter.

LXV.

If we have disseised or dispossessed the Welsh, of any Lands, liberties or other things, without the legal Judgment of their Peers, they shall be immediately restored to them. And if any dispute arises upon this head, the matter shall be determined in the Marches, by the Judgment of their Peers ; For tenements in England, according to the law of England ; for tenements in Wales, according to the law of Wales ; for tenements in the Marches, according to the law of the Marches ; The same shall the Welsh do to us and our subjects.

LXVI.

As for all those things, of which any Welshman hath, without the legal judgment of his Peers, been disseised or deprived, by King Henry our Father, or our Brother King Richard, and which we either have in our hands, or others are possessed of, and we are obliged to warrant it ; we shall have a respite till the time generally allowed the Croises ; excepting those things about which a suit is pending, or whereof an Inquest has been made by our Order, before we undertook the Crusade. But when we return, or if we stay at home, and do not perform our pilgrimage, we will immediately do them full Justice according to the laws of the Welsh, and of the parts aforementioned.

LXVII.

We will without delay dismiss the son of Lewelin, and all the Welsh Hostages, and release them from the engagements they entered into with us for the preservation of the peace.

LXVIII.

We shall treat with Alexander, King of Scots, concerning the restoring of his Sisters, and Hostages, and Rights and Liberties, in the same form and manner as we shall do to the rest of our Barons of England ; unless by the engagements which his Father William, late King of Scots, hath entered into with us, it ought to be otherwise ; and this shall be left to the determination of his Peers in our Court.

LXIX.

All the aforesaid customs and liberties which we have granted, to be holden in our Kingdom, as much as it belongs to us towards our people ; all our subjects, as well Clergy as Laity, shall observe as far as they are concerned, towards their dependants.

LXX.

And whereas for the honour of God, and the Amendment of our Kingdom, and for quieting the Discord that has arisen between us and our Barons, we have granted all the things aforesaid ; willing to render them firm and lasting, we do give and grant our subjects the following security ; namely, that the Barons may choose five and twenty Barons of the Kingdom, whom they shall think convenient, who shall take care with all their Might to hold and observe, and cause to be observed, the Peace and Liberties we have granted them, and by this our present Charter confirmed. So as that, if we, our Justiciary, our Bailiffs, or any of our Officers, shall in any case fail in the performance of them towards any person ; or shall break through any of these Articles of Peace and Security, and the offence is notified to four Barons, chosen out of the five and twenty aforementioned, the said four Barons shall repair to us, or to our Justiciary if we are out of the Realm, and laying open the Grievance, shall petition to have it redressed without delay ; and if it is not redressed by us, or, if we should chance to be out of the Realm, if it is not redressed by our Justiciary within Forty Days, reckoning from the time it has been notified to us, or to our Justiciary if we should be out of the Realm ; the four Barons aforesaid shall lay the cause before the rest of the five and twenty Barons ; and the said five and twenty Barons, together with the Community of the whole Kingdom, shall distress and distress us in all the ways possible ; namely, by seising our Castles, Lands, Possessions, and in any other manner they can, till the grievance is redressed to their pleasure, saving harmless our own Person, and the Persons of our Queen and Children ; and when it is redressed they shall obey us as before.

LXXI.

And any person whatsoever in the Kingdom may swear, that he will obey the orders of the five and twenty Barons aforesaid, in the execution of the Premises, and that he will distress us, jointly with them, to the utmost of his power ; and we give public and

free Liberty to any one that will swear to them, and never shall hinder any person from taking the same Oath.

LXXII.

As for all those of our subjects, who will not of their own accord, swear to join the five and twenty Barons, in distreining and distressing us, we will issue our order to make them take the same Oath, as aforesaid.

LXXIII.

And if any one of the five and twenty Barons dies, or goes out of the Kingdom, or is hindered any other way, from putting the things aforesaid in execution, the rest of the said five and twenty Barons may choose another in his room, at their discretion, who shall be sworn in like manner as the rest.

LXXIV.

In all things that are committed to the charge of these five and twenty Barons, if, when they are all assembled together, they should happen to disagree about any matter ; or some of them summoned will not, or cannot come, whatever is agreed upon, or enjoined by the major part of those who are present, shall be reputed as firm and valid, as if all the five and twenty had given their consent ; and the foresaid five and twenty shall swear that all the Premises they shall faithfully observe, and cause with all their power to be observed.

LXXV.

And we will not by ourselves or others, procure any thing, whereby any of these Concessions and Liberties be revoked, or lessened ; and if any such thing be obtained, let it be null and void ; neither shall we ever make use of it, either by ourselves or any other.

LXXVI.

And all the illwill, anger and malice that hath arisen between us and our subjects of the Clergy and Laity, from the first breaking out of the dissension between us, we do fully remit and forgive. Moreover, all Trespasses occasioned by the said dissension, from Easter in the sixteenth year of our reign, till the restoration of peace and tranquility, we hereby entirely remit to all, Clergy as well as Laity, and as far as in us lies, do fully forgive.

LXXVII.

We have moreover granted them our Letters Patents testimonial of Stephen Lord Archbishop of Canterbury, of Henry Lord Archbishop of Dublin, and the Bishops aforesaid, as also of Master Pandulph, for the security and concessions aforesaid.

LXXVIII.

Wherefore we will, and firmly enjoin, that the Church of England be free, and that all men in our Kingdom, have and hold, all the foresaid Liberties, Rights and concessions, truly and peaceably, freely and quietly, fully and wholly, to themselves and their heirs, of us and our heirs, in all things and places forever, as is aforesaid.

LXXIX.

It is also sworn, as well on our part as upon the part of the Barons, that all the things aforesaid shall faithfully and sincerely be observed.

GIVEN under our hand, in the presence of the witnesses above named and many others, in the Meadow called Runingmede, between Windelsore and Staines, the 15th day of June, in the 17th year of our Reign.

MAGNA CARTA OF EDWARD I.

TWELFTH DAY OF OCTOBER, IN THE TWENTYFIFTH YEAR OF THE
KING'S REIGN, A. D. 1297.

From the Great Roll of Statutes in the Tower of London, in 40, 39, 35.

EDWARD, by the Grace of God, King of England, Lord of Ireland, and Duke of Guyan, to all to whom these present letters shall come, Greeting. We have seen the Great Charter of the Lord Henry, sometimes King of England, our father, of the Liberties of England, in these words :

HENRY, by the Grace of God, King of England, Lord of Ireland, Duke of Normandy and Guyan, and Earl of Anjou : To the Archbishops, Bishops, Abbots, Priors, Earls, Barons, Sheriffs, Provosts, Officers, and to all Bailiffs, and other our faithful subjects which shall see this present Charter, greeting. Know ye, That we, unto the honor of Almighty God, and for the salvation of our soul, and the souls of our progenitors and successors, Kings of England, to the advancement of Holy Church, and the amendment of our Realm, of our meer free will, have given and granted to all Archbishops, Bishops, Abbots, Priors, Earls, Barons, and to all freemen of this our Realm, these Liberties following, to be kept in our Kingdom of England forever.

I.

First, we have granted to God, and by this our present Charter, have confirmed for us and our heirs forever, that the Church of England shall be free, and shall have all her whole rights and liberties inviolable. We have granted also and given to all the freemen of our Realm, for us and our heirs forever, these liberties underwritten, to have and to hold, to them and their heirs, of us and our heirs.

II.

If any of our Earls or Barons, or any other which hold of us in Chief by knight's service, die, and at the time of his death his heir be of full age, and oweth to us relief, he shall have his inheritance at the old relief ; that is to say, the heir or heirs of an Earl, for a whole earldom, by an hundred pounds ; the heir or heirs of a Baron, for a whole Barony, by one hundred marks ; the heir or heirs of a Knight, for a whole Knight's fee, by one hundred shil-

lings at the most ; and he that hath less shall give less, according to the old custom of the fees.

III.

But if the heir of any such be within age, his Lord shall not have the ward of him, nor of his land before that he hath taken of him homage ; and after that such an heir hath been in ward, when he is come to full age, that is to say, to the age of one and twenty years, he shall have his inheritance without relief, and without fine. So that if such an heir, being within age, be made a Knight, yet nevertheless his Land shall remain in the keeping of his Lord, until the term aforesaid.

IV.

The keeper of the land of such heir, being within age, shall not take of the lands of the heir but reasonable issues, reasonable customs, and reasonable services ; and that without destruction or waste of his men and his goods. And if we commit the custody of any such land to the Sheriff, or to any other which is answerable unto us for the issues of the same land, and if he makes destruction or waste of those things which he hath in custody, we will take of him amends and recompense therefore, and the land shall be committed to two lawful and discreet men of that fee, which shall answer unto us for the issues of the same land, or unto him to whom we shall have assigned them ; and if we give or sell to any man the custody of any such land, and he therein do make destruction or waste, he shall lose the same custody ; and it shall be assigned to two lawful and discreet men of that fee, which also in like manner shall be answerable to us, as afore is said.

V.

The keeper so long as he hath the custody of the land of such an heir, shall keep up the houses, parks, warrens, ponds, mills and other things, pertaining to the said land, with the issues of the said land ; and he shall deliver to the Heir, when he cometh of his full age, all his land stored with ploughs, and all other things, at the least as he received it. All these things shall be observed in the custodies of Archbishopricks, Bishopricks, Abbies, Priors, Churches and Dignities vacant which appertain to us, except this, that such custody shall not be sold.

VI.

Heirs shall be married without Disparagement.

VII.

A Widow, after the death of her husband, incontinent, and without any difficulty, shall have her marriage and her inheritance, and shall give nothing for her dower, her marriage or her inheritance, which her husband and she held the day of the death of her husband, and she shall tarry in the chief house of her husband by forty days after the death of her husband, within

which days her dower shall be assigned her, if it were not assigned her before, or that the house be a castle ; and if she depart from the castle, then a competent house shall be forthwith provided for her, in the which she may honestly dwell, until her dower be to her assigned, as is aforesaid ; and she shall have in the meantime, her reasonable estovers of the common ; and for her dower shall be assigned unto her the third part of all the lands of her husband, which were his during coveture, except she were endowed of less at the Church door. No Widow shall be destreined to marry herself ; nevertheless she shall find surety that she shall not marry without our license and assent, if she hold of us, nor without the assent of the Lord, if she hold of another.

VIII.

We or our Bailiffs shall not seize any land or rent for any debt, as long as the present goods and chattles of the debtor do suffice to pay the debt, and the debtor himself be ready to satisfy therefore. Neither shall the pledges of the debtor be distrained, as long as the principal debtor is sufficient for the payment of the debt. And if the principal debtor fail in the payment of the debt, having nothing wherewith to pay, or will not pay where he is able, the pledges shall answer for the payment of the debts. And if they will, they shall have the lands and rents of the debtor, until they be satisfied of that which they before paid for him, except that the debtor can show himself to be acquitted against the said sureties.

IX.

The city of London shall have all the old liberties and customs which it hath been used to have. Moreover, we will and grant, that all other Cities, Boroughs, Towns, and the Barons of the five Ports, and all other Ports, shall have all their liberties and free customs.

X.

No man shall be distrained to do more service for a Knight's fee, nor any freehold, than therefore is due.

XI.

Common pleas shall not follow our court, but shall be holden in some place certain.

XII.

Assizes of novel disseisin and Mort d'ancestre, shall not be taken but in the shires, and after this manner ; If we be out of this Realm, our chief Justicer shall send our Justicers through every county, once in the year, which, with the Knights of the shire, shall take the said Assizes in these Counties ; and those things that at the coming of our foresaid Justicers, being sent to take those Assizes in the counties, cannot be determined, shall be ended by them at some other place in their circuit ; and those

things, which for difficulty of some articles cannot be determined by them, shall be referred to our Justicers of the Bench, and there be ended.

XIII.

Assizes of Darrein Presentment, shall be always taken before our Justices of the Bench, and there shall be determined.

XIV.

A Freeman shall not be amerced for a small fault, but after the manner of the fault ; and for a great fault after the greatness thereof, saving to him his contenment ; and a Merchant likewise, saving to him his merchandize ; and any other's villain than ours, shall be likewise amerced, saving his wainage, if he fall into our mercy. And none of the said Amerciaments shall be assessed but by the oath of honest and lawful men of the vicinage.

Earls and Barons shall not be amerced but by their Peers and after the manner of their offence. No man of the Church shall be amerced after the quantity of his spiritual Benefice, but after his Lay-tenement, and after the quantity of his offence.

XV.

No Town nor Freeman shall be distrained to make Bridges or Banks, but such as of old time and of right have been accustomed to make them in the time of King Henry our Grandfather.

XVI.

No Banks shall be defended from henceforth but such as were in defence in the time of King Henry our Grandfather, by the same places and the same bounds as they were wont to be in his time.

XVII.

No Sheriff, Constable, Escheater, Coroner, nor any other our Bailiffs, shall hold Pleas of our Crown.

XVIII.

If any that holdeth of us Layfee, do die, and our Sheriff or Bailiff do show our Letters Patent of our summon for the debt which the dead man did owe to us, it shall be lawful to our sheriff or Bailiff to attach and inroll all the goods and chattels of the dead, being found in the said fee, to the value of the same debt, by the sight and testimony of lawful men, so that nothing thereof shall be taken away, until we be clearly paid off the debt ; and the residue shall remain to the Executors to perform the testament of the dead ; and if nothing be owing unto us, all the chattels shall go to the use of the dead, saving to his wife and children their reasonable parts.

XIX.

No Constable nor his Bailiff, shall take corn or any other chattles of any man, if the man be not of the Town where the Castle is, but he shall forthwith pay for the same, unless that the will of the seller was to respite the payment, and if he be of the Town, the price shall be paid unto him within forty days.

XX.

No Constable shall distrain any Knight for to give money for keeping of his castle, if he himself will do it in his proper person, or cause it to be done by another sufficient man, if he may not do it himself for some reasonable cause. And if we do lead or send him in an army, he shall be free from Castleward for the time that he shall be with us in fee in our host, for the which he hath done service in our wars.

XXI.

No Sheriff or Bailiff of ours or any other, shall take the Horses or Carts of any man to make carriage, except he pay the old price limited, that is to say, for carriage with two horses, X. d. a day; for three horse, XIV. d. a day. No Demesne cart of any spiritual person or Knight, or any Lord, shall be taken by our Bailiffs; nor we, nor our Bailiffs, nor any other, shall take any man's wood for our Castles, or other our necessities to be done, but by the license of him whose the wood is.

XXII.

We will not hold the lands of them that be convict of Felony, but one year and one day, and then those lands shall be delivered to the Lords of the fee.

XXIII.

All Wears shall be from henceforth utterly put down by Thames and Medway, and through all England but only by the sea coasts.

XXIV.

The Writ that is called Præcipe in capite, shall be from henceforth granted to no person of any freehold, whereby any freeman may lose his Court.

XXV.

One measure of Wine shall be through our Realm, and one measure of Ale, and one measure of Corn, that is to say, the Quarter of London; and one breadth of dyed Cloth, russets and haberjects, that is to say, two Yards within the lists. And it shall be of Weights as it is of Measures.

XXVI.

Nothing from henceforth shall be given for a Writ of Inquisition, nor taken of him that prayeth Inquisition of Life, or of Member; but it shall be granted freely and not denied.

XXVII.

If any do hold of us by Feeferm, or by Socage, or Burgage, and he holdeth lands of another by Knights' Service, we will not have the custody of his Heir, or of his Land, which is holden of the Fee of another, by reason of that Feeferm, Socage, or Burgage. Neither will we have the custody of such Feeferm, Socage, or Burgage, except Knight's Service be due unto us out of the said Feeferm. We will not have the custody of the Heir, or of any Land which he holds of another by Knight's Service, by occasion of any Petit Sergeantry, that any man holdeth of us by service to pay a knife, an arrow, or the like.

XXVIII.

No Bailiff from henceforth shall put any man to his open Law, nor to an Oath, upon his own bare saying, without faithful Witnesses brought in for the same.

XXIX.

No Freeman shall be taken or imprisoned, or disseized of his Freehold, or Liberties, or Free Customs, or be outlawed, or exiled, or any otherwise destroyed; and we will not pass upon him nor condemn him, but by lawful judgement of his Peers, or by the Law of the Land. We will sell to no man, we will not deny or defer to any man, either Justice or Right.

XXX.

All Merchants, if they were not openly prohibited before, shall have their safe and sure Conduct to depart out of England, to come into England, to tarry in and go through England, as well by Land as by Water, to buy and sell without any manner of evil Tolls, by the old and rightful Customs, except in time of War. And if they be of a land making War against us, and be found in our Realm at the beginning of the Wars, they shall be attached without harm of body or of goods, until it be known to us, or our Chief Justice, how our Merchants be intreated there in the land making War against us; and if our Merchants be well intreated there, theirs shall be likewise with us.

XXXI.

If any man hold of any Eschete, as of the honour of Walingford, Nottingham, Boloin, or of any other Eschete which be in our hands, and are Baronies, and die, his heir shall give none other relief, nor do none other service to us than he should to the Baron, if it were in the Baron's hand; and we in the same wise shall hold it as the Baron held it; neither shall we have by occasion of any Barony or Eschete, any Eschete or keeping of any of our men, unless he that held the Barony or Eschete, elsewhere held of us in chief.

XXXII.

No Freeman from henceforth shall give or sell any more of his land ; but so that of the residue of the Lands, the Lord of the Fee may have the service due to him, which belongeth to the Fee.

XXXIII.

All Patrons of Abbeys, which have the King's Charters of England of Advowson, or have old tenure or possession in the same, shall have the custody of them when they fall void, as it hath been accustomed, and as it is afore declared.

XXXIV.

No man shall be taken and imprisoned upon the appeal of a woman, for the death of any other man than her husband.

XXXV.

No County Court from henceforth shall be holden, but from Month to Month ; and where greater time hath been used, there shall be greater ; Nor any Sheriff or his Bailiff shall keep his turn in the hundred, but twice in the year ; and no where but in due place and accustomed : that is to say, once after Easter, and again after the Feast of St. Michael. And the view of Frank Pledge shall be likewise at the Feast of St. Michael, without occasion ; so that every man may have his liberties which he had, or used to have, in the time of King Henry our Grandfather, or which he hath purchased since. The view of Frank Pledge shall be so done, that our Peace may be kept ; and that the tything be wholly kept as it hath been accustomed ; and that the Sheriff seek no occasions, and that he be content with so much as the Sheriff was wont to have for his viewmaking, in the time of King Henry our Grandfather.

XXXVI.

It shall not be lawful for any from henceforth to give his lands to any Religious house, and to take the same lands again to hold of the same house. Nor shall it be lawful to any House of Religion to take the lands of any, and to lease the same to him of whom he received it. If any from henceforth give his lands to any Religious House, and thereupon be convict, the gift shall be utterly void, and the land shall accrue to the Lord of the Fee.

XXXVII.

Escuage from henceforth shall be taken like as it was wont to be in the time of King Henry our Grandfather ; reserving to all Archbishops, Bishops, Abbots, Priors, Templers, Hospitallers, Earls, Barons, and all persons, as well Spiritual as Temporal, all their free liberties and free customs which they have had in time passed : And all these customs and liberties aforesaid, which we have granted to be holden within this our Realm, as much as ap-

pertaineth to us and our heirs, we shall observe ; and all men of this our Realm, as well Spiritual as Temporal, as much as in them is, shall observe the same against all persons in likewise. And for this our gift and grant of these liberties, and of other contained in our charter of the liberties of our Forest, the Archbishops, Bishops, Abbots, Priors, Earls, Barons, Knights, Freeholders, and other our subjects, have given unto us the fifteenth part of all their moveables. And we have granted unto them, on the other part, that neither we, nor our heirs, shall procure or do any thing whereby the liberties in this Charter contained, shall be infringed or broken ; and if any thing be procured by any person, contrary to the premises, it shall be had of no force nor effect. These being witnesses ; Lord S. Archbishop of Canterbury, E. Bishop of London, J. Bishop of Bath, P. of Winchester, H. of Lincoln, R. of Salisbury, W. of Rochester, W. of Worcester, J. of Ely, H. of Hereford, R. of Chichester, W. of Exeter, Bishops ; the Abbot of St. Edmonds, the Abbot of St. Albans, the Abbot of Bello, the Abbot of St. Augustines in Canterbury, the Abbot of Evesham, the Abbot of Westminster, the Abbot of Bourgh St. Peter, the Abbot of Reading, the Abbot of Abindon, the Abbot of Malmsbury, the Abbot of Winchcomb, the Abbot of Hyde, the Abbot of Certesy, the Abbot of Sherburn, the Abbot of Cerne, the Abbot of Abbotebir, the Abbot of Middleton, the Abbot of Seleby, the Abbot of Cirencester ; H. de Burgh, Justice, H. Earl of Chester and Lincoln, W. Earl of Salisbury, W. Earl of Warren, G. de Clare, Earl of Gloucester and Hertiford, W. de Ferrars, Earl of Derby, W. de Mandeville, Earl of Essex, H. de Bygod, Earl of Norfolk, W. Earl of Albemarle, H. Earle of Hereford, J. Constable of Chester, R. de Ros, R. Fitzwalter, R. de Vyponte, W. de Bruer, R. de Montefichet, P. Fitzherbert, W. de Aubenie, F. Gressly, F. de Breus, J. de Monemue, J. Fitsallen, H. de Mortimer, W. de Beauchamp, W. de St. John, P. de Mauli, Brian de Lisle, Thomas de Multon, R. de Argentyn, G. de Neville, W. de Manduit, J. de Balun, and others : Given at Westminster, the eleventh day of February, the ninth year of our Reign.

II.

We, ratifying and approving these gifts and grants aforesaid, confirm and make strong for us and our heirs perpetually, all the same, and by the tenour of these presents do renew the same ; willing and granting for us and our heirs, that this Charter and all singular these Articles forever, shall be stedfastly, inviolably, and firmly observed, and if any Article in the said Charter contained, yet hitherto, peradventure hath not been kept, we will, and by Authority Royal command, from henceforth firmly they be observed. In witness whereof, we have caused these our Letters Patents to be made. T. Edward our son, at Westminster, the twentyeighth day of March, in the twentyeighth* year of our reign.

* This ought to be the 25th year, A. D.1297. See Statutes of the Realm, vol. 1 p. 119.

Car. 1-1625

PETITION OF RIGHTS,

PRESENTED TO KING CHARLES THE FIRST,
WITH THE KING'S REPLY.*

TO THE KING'S MOST EXCELLENT MAJESTIE.

HUMBLY shew unto our Sovereign Lord the King, the Lords Act pub. xviii. p. 1010.
 Spiritual and Temporal, and Commons in Parliament assembled, that, whereas it is declared and enacted by a Statute, made in the
 tyme of the Raigne of King Edward the first, commonly called, Rushworth T. 1. p. 588. Annals p. 103.
 "Statutum de Tallagio non concedendo," that no Tallage or Aide
 should be laid or levied, by the King or his heires, in this Realme ;
 without the good will and assent of the Arch Bishoppes, Bishoppes,
 Earles, Barons, Knights, Burgesses and other the freemen of the
 cominalty of this realm : And by Authority of Parliament houlden
 in the five and twentieth yere of the Raigne of King Edward the
 third, it is declared and enacted that from thenceforth noe person
 should be compelled to make any loanes to the King against his
 will, because such loanes were against reason, and the franchise of
 the land ; and by other lawes of this realme it is provided, that
 none should be charged by any charge or imposition, called a Be-
 nevolence, nor by such like charge, by which the Statuts before
 mentioned, and other the good lawes and statuts of this Realme,
 your Subjects have inherited this freedom, that they should not be
 compelled to contribute to any Tax, Tallage, Aide, or other like
 charge, not sett by common consent in Parliament.

Yet nevertheless of late, divers commissions, directed to sun-
 drie commissioners in severall Counties, with instructions, have
 been issued, by means whereof your People have bene in divers
 places assembled, and required to lend certaine sommes of money
 unto your Majestie. and many of them upon their refusall soe to
 doe, have had an oath administered unto them, not warrantable by
 the Lawes or Statuts of this Realme, and have been constrained
 to become bound to make appearance, and give attendance
 before your Privie Councell and in other places ; and others
 of them have bene therefore imprisoned, confined and sundrie
 other wayes molested and disquieted : And divers other charges
 have bene laid and leavied upon your People in severall Coun-
 ties, by Lords Lieutenants, Deputie Lieutenants, Commissioners
 for musters, Justices of peace and others, by cominaunde or direc-

* This Petition was drawn up by Sir Edward Coke.—Coke, 207, Edition of 1697.

tion from your Majestie, or your Privie Councill, against the lawes and free customes of the realme.

9 Hen. 3. 29. And whereas alsoe by the Statute called "The greate Charter of the Liberties of England," it is declared and enacted that noe freeman may be taken or imprisoned, or be disseised of his freehold or liberties, or his free customes, or be outlawed or exiled, or in any manner destroyed, but by the lawfull judgment of his Peeres, or by the lawe of the land.

23 Edw. 3. 3. And in the eighth and twentieth yere of the reigne of King Edward the third, it was declared and enacted by Authoritie of Parliament, that no man of what estate or condition that he be, should be putt out of his lands or tenements, nor taken nor imprisoned, nor disherited, nor putt to death, without being brought to answer by due process of lawe.

37 Edw. 3. 13.
38 Edw. 3. 9.
42 Edw. 3. 3.
17 Rich. 2. 6. Nevertheless against the tenour of the said Statutes, and other the good lawes and Statuts of your Realme, to that end provided, divers of your subjects have of late beene imprisoned without any cause showed ; and when for their deliverance they were brought before your Justices by your Majestie's Writ of Habeas Corpus, there to undergo and receive, as the Court should order, and their Keepers commaunded to certify the causes of their detayner ; noe cause was certified, but that they were detayned by your Majestie's special commaund, signified by the Lords of your Privie Councill, and yet were returned back to severall prisons, without being charged with any thynge to which they might make answere according to the lawe.

And whereas of late, great companies of souldiers and mariners have bene dispersed into divers Counties of the Realme, and the inhabitants against their wills have been compelled to receive them into their houses, and there to suffer them to sojourne, against the lawes and customes of this realme, and to the great grievance and vexation of the People.

25 Edw. 3. 9.
9 Hen. 3. 29.
25 Edw. 3. 4.
23 do. 3. And whereas alsoe, by authority of Parliament, in the 25th yere of the raigne of King Edward III, it is declared and enacted that noe man should be forejudged of life or lymbe, against the forme of the great Charter, and the lawe of the land, and by the said great Charter, and other the Laws and Statuts of this your Realme, noe man ought to be adjudged to death, but by the lawes established in this your realme, either by the customes of the same realme, or by Acts of Parliament ; And whereas noe offender, of what kind soever, is exempted from the proceedings to be used, and the punishments to be inflicted by the lawes and statutes of this your realme ; nevertheless of late time, divers commissions under your Majestie's Greate Seale have issued forth, by which certaine persons have been assigned and appointed commissioners, with power and authoritie to proceed within the land, according to the justice of martiall lawe, against such souldiers and marriners, or other dissolute persons joyning with them, as should commit any murder, robbery, felonie, meeting or other outrage or misdemeanour whatsoever ; and by such summarie course and order as is agreeable to martiall lawe, and as is used in armies in tyme of war, to

proceed to the tryal and condemnation of such offenders, and then to cause to be executed and putt to death, according to the lawe martiall.

By pretext whereof, some of your Majestie's Subjects have bene by some of the said commissioners putt to death, when and where, if by the lawes and statuts of the land they had deserved death, by the same lawes and statuts alsoe they might, and by no other ought, to have been judged and executed.

And alsoe sundrie grievous offenders, by colour thereof clayminge an exemption, have escaped the punishments due to them by the lawes and statuts of this your realm, by reason that divers of your officers and ministers of justice have unjustly refused or forborne to proceed against such offenders, according to the same lawes and statuts, upon pretence that the said offenders were punishable only by martiall lawe, and by authority of such commissions as aforesaid; which commissions, and all others of like nature, are wholly and directlie contrary to the said lawes and statuts of this your realme.

They doe therefore humbly pray your most excellent Majestie, ^{Petition.} That no man hereafter be compelled to make or yielde any guifte, loane, benevolence, tax, or such like charge, without common consent by Act of Parliament; and that none be called to make answeare, or take such oath, or to give attendance, or be confyned, or otherwise molested or disquieted concerning the same, or for refusall thereof: And that noe freeman, in any such manner as is before mentioned, be imprisoned or delayed: And that your Majestie would be pleased to remove the said souldiers and marriners, and that your People may not be soe burdened in the tyme to come: And that the aforesaid commissions for proceedinge by martiall lawe, may be revoaked and annulled; and that hereafter noe commissions of like nature, may issue forth to any person or persons whatsoever, to be executed as aforesaid, least by colour of them, any of your Majestie's subjects be destroyed, or putt to death, contrary to the laws and franchise of the land.

All which they do most humbly pray of your most excellent Majestie, as their Rights and Liberties, accordinge to the lawes and statuts of this Realme. And that your Majestie would also vouchsafe to declare, that the awardes, doeings, and proceedings, to the prejudice of your People, in any of the premisses, shall not be drawn hereafter into consequence or example: And that your Majestie would be alsoe graciously pleased, for the further comfort and safetie of your people, to declare your royal will and pleasure, That in the things aforesaid all your officers and ministers shall serve you, according to the lawes and statuts of this realme, as they tender the honour of your Majestie, and the prosperity of this Kingdom.

THE KING'S ANSWER TO THE PETITION OF RIGHTS.

The King's
Answer.

The King willeth that Right be done, according to the laws and customs of the realme ; and that the Statutes be put in due execution, that his subjects may have no cause to complain of any wrong or oppressions, contrary to their just Rights and Liberties, to the preservation whereof he holds himself in conscience as well obliged, as of his prerogative.

Rushworth, T.
1. p. 590.

PETITION OF BOTH HOUSES TO THE KING, ON THE 7TH DAY OF JUNE, 1628, WHEREIN A MORE FULL AND SATISFACTORY ANSWER TO THE ABOVE PETITION IS PRAYED FOR.

Petition of both
Houses.

May it please your most excellent Majestie, The Lords Spiritual and Temporal, and Commons in Parliament assembled, taking in consideration that the good intelligence between your Majestie and your People, doth much depend upon your Majestie's answer upon their Petition of Right, formerly presented ; with unanimous consent do now become most humble suitors unto your Majestie, that you would be pleased to give a clear and satisfactory answer thereunto, in full Parliament.

TO WHICH PETITION THE KING REPLIED,

The answer I have already given you was made with so good deliberation, and approved by the judgements of so many wise men, that I could not have imagined but that it would have given you full satisfaction : But to avoid all ambiguous interpretations, and to show you there is no doubleness in my meaning, I am willing to pleasure you as well in words as in substance ; Read your petition, and you shall have an answer that I am sure will please you.

Answer.

Here the Petition was read, and the following answer was returned,—“ Soit Droit fait comme il est desire.” C. R.

THEN SAID HIS MAJESTY,

Speech of the
King.

This I am sure is full, yet no more than I granted you in my first answer, for the meaning of that, was to confirm your liberties, knowing according to your own protestations, that you neither mean nor can hurt my prerogative. And I assure you, my maxim is, that the People's liberties strengthen the King's Prerogative, and the King's Prerogative is to defend the People's Liberties.

You see how ready I have shown myself to satisfy your demand, so that I have done my part ; wherefore if this parliament have not a happy conclusion, the sin is yours, I am free from it.

[The above is the Answer of the King in Parliament, and his Speech on that occasion, June 7th, 1628.]

BILL OF RIGHTS,

PASSED 1 WILLIAM AND MARY, SESS. 2. CH. 2,
1689.

AN ACT FOR DECLARING THE RIGHTS AND LIBERTIES OF THE
SUBJECT, AND SETTLING THE SUCCESSION OF THE CROWN.

I W. AND M. 1689.

WHEREAS the Lords Spiritual and Temporal, and Commons, assembled at Westminster, lawfully, fully and freely representing all the Estates of the People of this Realm, did, upon the thirteenth day of February, in the year of our Lord, One Thousand six Hundred and Eightyeight, present unto their Majesties then called and known by the name and stile of William and Mary, Prince and Princess of Orange, being present in their proper persons, a certain declaration in writing, made by the said Lords and Commons, in the words following, viz.

Whereas the late King James the Second, by the assistance of ^{The heads of} divers evil counsellors, judges, and ministers employed by him, ^{abdication.} did endeavor to subvert and extirpate the protestant religion, and the laws and liberties of this kingdom,

1. By assuming and exercising a power of dispensing with and ^{Dispensing} suspending of laws, and the execution of laws, without consent ^{power.} of Parliament.

2. By committing and prosecuting divers worthy prelates, for ^{Committing} humbly petitioning to be excused from concurring to the said as- ^{prelates.} sumed power.

3. By issuing and causing to be executed a commission under ^{Ecclesiastical} the great seal for erecting a court called, The court of commis- ^{commission.} sioners for ecclesiastical causes.

4. By levying money for and to the use of the crown, by pre- ^{Levying} tence of prerogative, for other time, and in other manner, than the ^{money.} same was granted by Parliament.

5. By raising and keeping a standing army within this kingdom ^{Standing army.} in time of peace, without consent of Parliament, and quartering soldiers contrary to law.

6. By causing several good subjects, being protestants, to be ^{Disarming} disarmed, at the same time when papists were both armed and em- ^{protestants.} ployed contrary to law.

7. By violating the freedom of election of members to serve in ^{Violating elec-} Parliament. ^{tions.}

Wrong prosecutions.

8. By prosecutions in the court of King's bench, for matters and causes cognizable only in Parliament; and by divers other arbitrary and illegal courses.

Juries.

9. And whereas of late years, partial, corrupt, and unqualified persons have been returned and served on juries in trials, and particularly divers jurors in trials for high treason, which were not freeholders.

Excessive bail.

10. And excessive bail hath been required of persons committed in criminal cases, to elude the benefit of the laws made for the liberty of the subjects.

Fines and punishments.

11. And excessive fines have been imposed; and illegal and cruel punishments inflicted.

Grants of fines, &c.

12. And several grants and promises made of fines and forfeitures, before any conviction or judgment against the persons, upon whom the same were to be levied.

All which are utterly and directly contrary to the known laws and statutes, and freedom of this realm.

And whereas the said late King James the Second having abdicated the government, and the throne being thereby vacant, his highness the prince of Orange (whom it hath pleased Almighty God to make the glorious instrument of delivering this kingdom from popery and arbitrary power) did (by the advice of the Lords temporal and spiritual, and divers principal persons of the commons) cause letters to be written to the lords spiritual and temporal, being protestants, and other letters to the several counties, cities, universities, boroughs, and cinque-ports, for the choosing of such persons to represent them, as were of right to be sent to Parliament, to meet and sit at Westminster upon the two and twentieth day of January, in this year one thousand six hundred eighty and eight, in order to such an establishment, as that their religion, laws, and liberties might not again be in danger of being subverted: upon which letters, elections have been accordingly made; And thereupon the said lords spiritual and temporal, and commons, pursuant to their respective letters and elections, being now assembled in a full and free representative of this nation, taking into their most serious consideration the best means for attaining the ends aforesaid; do in the first place (as their ancestors in like case have usually done) for the vindicating and asserting their ancient rights and liberties, declare —

The subjects' rights.

1. That the pretended power of suspending of laws, or the execution of laws, by regal authority, without consent of Parliament, is illegal.

No dispensing power.

2. That the pretended power of dispensing with laws, or the execution of laws, by regal authority, as it hath been assumed and exercised of late, is illegal.

Late dispensing illegal.

Ecclesiastical courts illegal.

3. That the commission for erecting the late court of commissioners for ecclesiastical causes, and all other commissions and courts of like nature, are illegal and pernicious.

Levying money.

4. That levying money for or to the use of the crown, by pre- tence of prerogative, without grant of Parliament, for longer time, or in other manner than the same is or shall be granted, is illegal.

5. That it is the right of the subjects to petition the King, and all commitments and prosecutions for such petitioning are illegal. Right to petition.
6. That the raising or keeping a standing army within the kingdom in time of peace, unless it be with consent of Parliament, is against law. Standing army.
7. That the subjects which are protestants, may have arms for their defence suitable to their conditions, and as allowed by law. Subjects' arms.
8. That election of members of Parliament ought to be free. Freedom of election.
9. That the freedom of speech, and debates or proceedings in Parliament, ought not to be impeached or questioned in any court or place out of Parliament. Freedom of speech.
10. That excessive bail ought not to be required, nor excessive fines imposed ; nor cruel and unusual punishments inflicted. Excessive bail.
11. That jurors ought to be duly impanelled and returned, and jurors which pass upon men in trials for high treason, ought to be freeholders. Juries.
12. That all grants and promises of fines and forfeitures of particular persons before conviction, are illegal and void. Grants of forfeitures.
13. And that for redress of all grievances, and for the amending, strengthening, and preserving of the laws, Parliaments ought to be held frequently. Frequent parliaments.

And they do claim, demand, and insist upon all and singular the premises, as their undoubted rights and liberties ; and that no declarations, judgments, doings or proceedings, to the prejudice of the people in any of the said premises, ought in any wise to be drawn hereafter into consequence or example.

To which demand of their rights they are particularly encouraged by the declaration of his highness the prince of Orange, as being the only means for obtaining a full redress and remedy therein.

Having therefore an entire confidence, That his said highness the prince of Orange, will perfect the deliverance so far advanced by him, and will still preserve them from the violation of their rights, which they have here asserted, and from all other attempts upon their religion, rights, and liberties :

II. The said lords spiritual and temporal, and commons, assembled at Westminster, do resolve, That William and Mary, prince and princess of Orange, be, and be declared, King and Queen of England, France and Ireland, and the dominions thereunto belonging, to hold the crown and royal dignity of the said kingdoms and dominions to them the said prince and princess during their lives, and the life of the survivor of them ; and that the sole and full exercise of the regal power be only in, and executed by, the said prince of Orange, in the names of the said prince and princess, during their joint lives ; and after their deceases, the said crown and royal dignity of the said kingdoms and dominions to be to the heirs of the body of the said princess ; and for default of such issue, to the princess Anne of Denmark. and the heirs of her body ; and for default of such issue, to the heirs of the body of the said prince of Orange. And the lords spiritual and temporal, and commons, do pray the said prince and princess to accept the same accordingly. Tender of the crown.

New oaths of
allegiance, &c.

III. And that the oaths hereafter mentioned be taken by all persons of whom the oaths of allegiance and supremacy might be required by law, instead of them ; and that the said oaths of allegiance and supremacy be abrogated.

Allegiance.

I, A. B., do sincerely promise and swear, That I will be faithful and bear true allegiance to their Majesties, King WILLIAM and Queen MARY :

So help me God.

Supremacy.

I, A. B., do swear, That I do from my heart abhor, detest and abjure, as impious and heretical, that damnable doctrine and position, That princes excommunicated or deprived by the pope, or any authority of the see of Rome, may be deposed or murdered by their subjects, or any other whatsoever. And I do declare, That no foreign prince, person, prelate, state, or potentate hath, or ought to have any jurisdiction, power, superiority, pre-eminence or authority, ecclesiastical or spiritual, within this realm :

So help me God.

Acceptance of
the crown.

IV. Upon which their said Majesties did accept the crown and royal dignity of the kingdoms of England, France and Ireland, and the dominions thereunto belonging, according to the resolution and desire of the said lords and commons contained in the said declaration.

The two
houses to sit.

V. And thereupon their Majesties were pleased, That the said lords, spiritual and temporal, and commons, being the two houses of Parliament, should continue to sit, and with their Majesties royal concurrence make effectual provision for the settlement of the religion, laws and liberties of this kingdom, so that the same for the future might not be in danger again of being subverted ; to which the said lords spiritual and temporal, and commons, did agree and proceed to act accordingly.

Subject's
liberties to be
allowed.

VI. Now in pursuance of the premisses, the said lords spiritual and temporal, and commons, in Parliament assembled, for the ratifying, confirming and establishing the said declaration, and the articles, clauses, matters, and things therein contained, by the force of a law made in due form by authority of Parliament, do pray that it may be declared and enacted, That all and singular the rights and liberties asserted and claimed in the said declaration, are the true, ancient, and indubitable rights and liberties of the people of this kingdom, and so shall be esteemed, allowed, adjudged, deemed, and taken to be, and that all and every the particulars aforesaid shall be firmly and strictly holden and observed, as they are expressed in the said declaration ; and all officers and ministers whatsoever shall serve their majesties and their successors according to the same in all times to come.

(Sections VII. VIII. IX. X. are irrelevant.)

King's assent.

XI. All which their Majesties are contented and pleased shall be declared, enacted and established by authority of this present Parliament, and shall stand, remain, and be the law of this realm forever ; and the same are by their said Majesties, by and with

the advice and consent of the lords spiritual and temporal, and commons, in parliament assembled, and by the authority of the same, declared, enacted, and established accordingly.

XII. And be it further declared and enacted by the authority aforesaid, That from and after this present session of parliament, no dispensation by *non obstante* of or to any statute, or any part thereof, shall be allowed, but that the same shall be held void and of no effect, except a dispensation be allowed of in such statute, and except in such cases as shall be specially provided for by one or more bill or bills to be passed during this present session of parliament. *Non obstantes made void.*

(Section XIII. irrelevant.)

ARTICLES OF CONFEDERATION.

IN CONGRESS, JULY 8, 1778.

ARTICLES OF CONFEDERATION AND PERPETUAL UNION, BETWEEN THE STATES OF NEW HAMPSHIRE, MASSACHUSETTS BAY, RHODE ISLAND AND PROVIDENCE PLANTATIONS, CONNECTICUT, NEW YORK, NEW JERSEY, PENNSYLVANIA, DELAWARE, MARYLAND, VIRGINIA, NORTH CAROLINA, SOUTH CAROLINA AND GEORGIA.

Article I. The style of this Confederacy shall be, "*the United States of America.*"

II. Each state retains its sovereignty, freedom, and independence, and every power, jurisdiction, and right, which is not by this confederation expressly delegated to the United States in Congress assembled.

III. The said States hereby severally enter into a firm league of friendship with each other, for their common defence, the security of their liberties, and their mutual and general welfare, binding themselves to assist each other against all force offered to, or attacks made upon them, or any of them, on account of religion, sovereignty, trade, or any other pretence whatever.

IV. Sect. 1st. The better to secure and perpetuate mutual friendship and intercourse among the people of the different States of this Union, the free inhabitants of each of these states, paupers, vagabonds, and fugitives from justice excepted, shall be entitled to all privileges and immunities of free citizens in the several states; and the people of each state shall have free ingress and egress to and from any other state, and shall enjoy therein all the privileges of trade and commerce, subject to the same duties, impositions and restrictions, as the inhabitants thereof respectively; provided that such restrictions shall not extend so far as to prevent the removal of property imported into any state, to any other state of which the owner is an inhabitant; *provided also*, that no imposition, duties, or restriction, shall be laid by any state, on the property of the United States, or either of them.

IV. 2. If any person guilty of, or charged with treason, felony, or other high misdemeanor in any state, shall flee from justice, and be found in any of the United States, he shall, upon the demand of the Governor or executive power of the state from which he fled, be delivered up and removed to the state having jurisdiction of his offence.

IV. 3. Full faith and credit shall be given in each of these states, to the records, acts, and judicial proceedings of the courts, and magistrates of every other state.

V. 1. For the more convenient management of the general interests of the United States, delegates shall be annually appointed in such manner as the legislature of each state shall direct, to meet in Congress on the first Monday in November in every year, with a power reserved to each state to recall its delegates, or any of them, at any time within the year, and to send others in their stead, for the remainder of the year.

V. 2. No state shall be represented in Congress by less than two nor more than seven members ; and no person shall be capable of being a delegate for more than three years, in any term of six years ; nor shall any person, being a delegate, be capable of holding any office under the United States, for which he, or any other for his benefit, receives any salary, fees, or emolument, of any kind.

V. 3. Each state shall maintain its own delegates in a meeting of the states, and while they act as members of the committee of these states.

V. 4. In determining questions in the United States in Congress assembled, each state shall have one vote.

V. 5. Freedom of speech and debate in Congress shall not be impeached or questioned in any court or place out of Congress, and the members of Congress shall be protected in their persons from arrests and imprisonments during the time of their going to and from, and attendance on Congress, except for treason, felony, or breach of the peace.

VI. 1. No state, without the consent of the United States in Congress assembled, shall send any embassy to, or receive any embassy from, or enter into any conference, agreement, alliance, or treaty, with any king, prince, or state, nor shall any person holding any office of profit or trust under the United States, or any of them, accept of any present, emolument, office, or title, of any kind whatever, from any king, prince, or foreign state ; nor shall the United States in Congress assembled, or any of them, grant any title of nobility.

VI. 2. No two or more states shall enter into any treaty, confederation, or alliance whatever, between them, without the consent of the United States in Congress assembled, specifying accurately the purposes for which the same is to be entered into, and how long it shall continue.

VI. 3. No state shall lay any imposts or duties which may interfere with any stipulations and treaties entered into by the United States in Congress assembled, with any king, prince, or state, in pursuance of any treaties already proposed by Congress to the courts of France and Spain.

VI. 4. No vessel of war shall be kept up in time of peace by any state, except such number only as shall be deemed necessary by the United States in Congress assembled, for the defence of such state, or its trade ; nor shall any body of forces be kept up by any

state in time of peace, except such number only as, in the judgment of the United States in Congress assembled, shall be deemed requisite to garrison the forts necessary for the defence of such state; but every state shall always keep up a well regulated and disciplined militia, sufficiently armed and accoutred, and shall provide and constantly have ready for use in public stores, a due number of field pieces and tents, and a proper quantity of arms, ammunition, and camp equipage.

VI. 5. No state shall engage in any war without the consent of the United States in Congress assembled, unless such state be actually invaded by enemies, or shall have received certain advice of a resolution being formed by some nation of Indians, to invade such state, and the danger is so imminent as not to admit of delay till the United States in Congress assembled can be consulted, nor shall any state grant commissions to any ships or vessels of war, nor letters of marque, or reprisal, except it be after a declaration of war by the United States in Congress assembled, and then only against the kingdom or state, and the subjects thereof, against which war has been so declared, and under such regulations as shall be established by the United States in Congress assembled, unless such state be invested by pirates, in which case vessels of war may be fitted out for that occasion, and kept so long as the danger shall continue, or until the United States in Congress assembled shall determine otherwise.

VII. When land forces are raised by any state for the common defence, all officers of or under the rank of colonel, shall be appointed by the legislature of each state respectively, by whom such forces shall be raised, or in such manner as such state shall direct, and all vacancies shall be filled up by the state which first made the appointment.

VIII. All charges of war, and all other expenses that shall be incurred for the common defence or general welfare, and allowed by the United States in Congress assembled, shall be defrayed out of a common treasury, which shall be supplied by the several states, in proportion to the value of all land within each state, granted to or surveyed for any person, as such land and the buildings and improvements thereon shall be estimated, according to such mode as the United States in Congress assembled, shall, from time to time direct and appoint. The taxes for paying that proportion, shall be laid and levied by the authority and direction of the legislatures of the several states, within the time agreed upon by the United States in Congress assembled.

IX. 1. The United States in Congress assembled, shall have the whole and exclusive right and power of determining on peace or war, except in the cases mentioned in the sixth article; of sending and receiving ambassadors; entering into treaties and alliances, provided that no treaty of commerce shall be made, whereby the legislative power of the respective states shall be restrained from imposing such imposts and duties on foreigners, as their own people are subjected to, or for prohibiting the exportation or importation of any species of goods or commodities whatever; of estab-

lishing rules for deciding in all cases what captures on land and water shall be legal, and in what manner prizes taken by land or naval forces in the service of the United States shall be divided or appropriated ; for granting letters of marque and reprisal in time of peace ; appointing courts for the trial of piracies, and felonies committed on the high seas ; and establishing courts for receiving and determining finally, appeals in all cases of captures ; Provided that no member of Congress shall be appointed a judge of any of the said courts.

IX. 2. The United States in Congress assembled, shall also be the last resort on appeal in all disputes and differences now subsisting or that hereafter may arise between two or more states, concerning boundary, jurisdiction, or any other cause whatsoever ; which authority shall always be exercised in the manner following ; Whenever the legislative or executive authority, or lawful agent of any state in controversy with another, shall present a petition to Congress, stating the matter in question, and praying for a hearing, notice thereof shall be given by order of Congress to the legislative or executive authority of the other state in controversy, and a day assigned for the appearance of the parties by their lawful agents, who shall then be directed to appoint, by joint consent, commissioners or judges to constitute a court for hearing and determining the matter in question ; but if they cannot agree, Congress shall name three persons out of each of the United States, and from the list of such persons, each party shall alternately strike out one, the petitioners beginning, until the number shall be reduced to thirteen ; and from that number not less than seven, nor more than nine names, as Congress shall direct, shall in the presence of Congress, be drawn out by lot ; and the persons whose names shall be so drawn, or any five of them, shall be commissioners or judges, to hear and finally determine the controversy, so always as a major part of the judges who shall hear the cause, shall agree in the determination : and if either party shall neglect to attend at the day appointed, without shewing reasons which Congress shall judge sufficient, or being present shall refuse to strike, then Congress shall proceed to nominate three persons out of each state and the Secretary of Congress shall strike in behalf of such party absent, or refusing ; and the judgment and sentence of the court, to be appointed in the manner before prescribed, shall be final and conclusive ; and if any of the parties shall refuse to submit to the authority of such court, or to appear or defend their claim or cause, the court shall nevertheless proceed to pronounce sentence or judgment, which shall in like manner be final and decisive ; the judgment or sentence and other proceedings being in either case transmitted to Congress, and lodged among the acts of Congress, for the security of the parties concerned ; provided that every commissioner, before he sits in judgment, shall take an oath, to be administered by one of the judges of the supreme, or superior court of the state where the case shall be tried, “ well and truly to hear and determine the matter in question, according to the best of his judgment, without favor, affection, or hope of reward ;” Pro-

vided also that no state shall be deprived of territory for the benefit of the United States.

IX. 3. All controversies concerning the private right of soil claimed under different grants of two or more states, whose jurisdiction, as they may respect those lands, and the states which passed such grants is adjusted, the said grants or either of them being at the same time claimed to have originated antecedent to such settlement of jurisdiction, shall, on the petition of either party, to the Congress of the United States, be finally determined, as near as may be, in the same manner as is before prescribed for deciding disputes respecting territorial jurisdiction between different States.

IX. 4. The United States in Congress assembled shall also have the sole and exclusive right and power of regulating the alloy and value of coin struck by their own authority, or by that of the respective states; fixing the standard of weights and measures throughout the United States; regulating the trade, and managing all affairs with the Indians, not members of any of the states; provided that the legislative right of any state within its own limits be not infringed or violated; establishing and regulating post offices from one state to another, throughout all the United States; and exacting such postage on the papers passing through the same, as may be requisite to defray the expenses of the said office; appointing all officers of the land forces in the service of the United States, excepting regimental officers, appointing all the officers of the naval forces, and commissioning all officers whatever in the service of the United States; making rules for the government and regulation of the said land and naval forces, and directing their operations.

IX. 5. The United States in Congress assembled, shall have authority to appoint a committee to sit in the recess of Congress, to be denominated, "A Committee of the States," and to consist of one delegate from each State; and to appoint such other committees and civil officers as may be necessary for managing the general affairs of the United States under their direction; to appoint one of their number to preside, provided that no person be allowed to serve in the office of president more than one year in any term of three years; to ascertain the necessary sums of money to be raised for the service of the United States, and to appropriate and apply the same for defraying the public expenses; to borrow money or emit bills on the credit of the United States, transmitting every half year to the respective states an account of the sums of money so borrowed or emitted; to build and equip a navy; to agree upon the number of land forces, and to make requisitions from each State for its quota, in proportion to the number of white inhabitants in such state, which requisition shall be binding; and thereupon the legislature of each state shall appoint the regimental officers, raise the men, clothe, arm, and equip them in soldier-like manner, at the expense of the United States, and the officers and men so clothed, armed and equipped, shall march to the place appointed, and within the time agreed on by the United States in Congress assembled; but if the United States in Congress assembled, shall, on consideration of circum-

stances, judge proper that any state should not raise men, or should raise a smaller number than its quota, and that any other state should raise a greater number of men than the quota thereof, such extra number shall be raised, officered, clothed, armed and equipped in the same manner as the quota of such state, unless the legislature of such state shall judge that such extra number cannot be safely spared out of the same, in which case they shall raise, clothe, arm, officer and equip, as many of such extra number as they judge can be safely spared, and the officers and men so clothed, armed and equipped, shall march to the place appointed, and within the time agreed on by the United States in Congress assembled.

IX. 6. The United States in Congress assembled, shall never engage in a war, nor grant letters of marque and reprisal in time of peace, nor enter into any treaties or alliances, nor coin money, nor regulate the value thereof, nor ascertain the sums and expenses necessary for the defence and welfare of the United States, or any of them, nor emit bills, nor borrow on the credit of the United States, nor appropriate money, nor agree upon the number of vessels of war to be built or purchased, or the number of land or sea forces to be raised, nor appoint a commander-in-chief of the army or navy, unless nine states assent to the same; nor shall a question on any other point, except for adjourning from day to day, be determined, unless by the votes of a majority of the United States in Congress assembled.

IX. 7. The Congress of the United States shall have power to adjourn to any time within the year, and to any place within the United States, so that no period of adjournment be for a longer duration than the space of six months, and shall publish the journal of their proceedings monthly, except such parts thereof relating to treaties, alliances, or military operations, as in their judgment require secrecy; and the yeas and nays of the delegates of each state, on any question, shall be entered on the journal, when it is desired by any delegate; and the delegates of a state or any of them, at his or their request, shall be furnished with a transcript of the said journal, except such parts as are above excepted, to lay before the legislatures of the several States.

X. The committee of the States or any nine of them, shall be authorized to execute, in the recess of Congress, such of the powers of Congress as the United States in Congress assembled, by the consent of nine states, shall from time to time think expedient to vest them with; provided that no power be delegated to the said committee, for the exercise of which, by the articles of confederation, the votes of nine states in the Congress of the United States assembled, is requisite.

XI. Canada, acceding to this confederation, and joining in the measures of the United States, shall be admitted into, and entitled to all the advantages of this union; but no other colony shall be admitted into the same, unless such admission be agreed to by nine States.

XII. All bills of credit emitted, monies borrowed, and debts

contracted by or under the authority of Congress, before the assembling of the United States in pursuance of the present confederation, shall be deemed and considered as a charge against the United States, for payment and satisfaction whereof the said United States and the public faith are hereby solemnly pledged.

XIII. Every state shall abide by the determination of the United States in Congress assembled, in all questions which by this confederation are submitted to them. And the articles of this confederation shall be inviolably observed by every state, and the union shall be perpetual; nor shall any alteration at any time hereafter be made in any of them, unless such alteration be agreed to in a Congress of the United States, and be afterwards confirmed by the legislature of every state.

And whereas it hath pleased the Great Governor of the world, to incline the hearts of the legislatures we respectively represent in Congress, to approve of, and to authorize us to ratify the said articles of confederation and of perpetual union: Know ye, that we the undersigned delegates, by virtue of the power and authority to us given for that purpose, do, by these presents, in the name and in behalf of our respective constituents, fully and entirely ratify and confirm each and every of the said articles of confederation and perpetual union, and all and singular the matters and things therein contained. And we do further solemnly plight and engage the faith of our respective constituents, that they shall abide by the determinations of the United States in Congress assembled, in all questions which by the said confederation are submitted to them; and that the articles thereof shall be inviolably observed by the states we respectively represent, and that the union shall be perpetual. In witness whereof, we have hereunto set our hands in Congress.

Done at Philadelphia, in the State of Pennsylvania, the 9th day of July, in the year of our Lord, 1778, and in the 3d year of the Independence of America.

NEW HAMPSHIRE.

JOSIAH BARTLETT,
JOHN WENTWORTH, Jr.

MASSACHUSETTS BAY.

JOHN HANCOCK,
SAMUEL ADAMS,
ELBRIDGE GERRY,
FRANCIS DANA,
JAMES LOVELL,
SAMUEL HOLTEN.

RHODE ISLAND, ETC.

WILLIAM ELLERY,
HENRY MARCHANT,
JOHN COLLINS.

CONNECTICUT.

ROGER SHERMAN,
SAMUEL HUNTINGTON,
OLIVER WALCOTT,
TITUS HOSMER,
ANDREW ADAMS.

NEW YORK.

JAMES DUANE,
FRANCIS LEWIS,
WILLIAM DUER,
GOUV. MORRIS.

NEW JERSEY.

JOHN WITHERSPOON,
NATHANIEL SCUDDER.

MARYLAND.

JOHN HANSON,
DANIEL CARROLL.

PENNSYLVANIA.

ROBERT MORRIS,
DANIEL ROBERDEAU,
JONATHAN BAYARD SMITH,
WILLIAM CLINGAN,
JOSEPH REED.

DELAWARE.

THOMAS McKEAN,
JOHN DICKINSON,
NICHOLAS VANDYKE.

VIRGINIA.

RICHARD HENRY LEE,
JOHN BANISTER,
THOMAS ADAMS,
JOHN HARVIE,
FRANCIS LIGHTFOOT LEE.

NORTH CAROLINA.

JOHN PENN,
CONS HARNETT,
JOHN WILLIAMS.

SOUTH CAROLINA.

HENRY LAURENS,
WILLIAM HENRY DRAYTON,
JOHN MATTHEWS,
RICHARD HUTSON,
THOMAS HEYWARD, JR.

GEORGIA.

JOHN WALTON,
EDWARD TELFAIR,
EDWARD LANGWORTHY.

WELDON TOLL BRIDGE COMPANY.

AN ACT TO AUTHORIZE THE BUILDING OF A TOLL BRIDGE OVER ROANOKE RIVER, AT THE TOWN OF WELDON, AND TO INCORPORATE A COMPANY FOR THAT PURPOSE.

(Passed at the session of 1831.)

BE 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 Moody, Richard H. Weaver, Andrew Joyner, Thomas T. Wiatt and Thomas W. Lassiter, or any three of them, be, and they are hereby appointed commissioners for receiving subscriptions to the amount of twenty thousand dollars, for the purpose of building a bridge over Roanoke river, at or near the town of Weldon; and the said commissioners, or a majority of them, shall prepare books, and cause the same to be opened at such places, and under the direction of themselves, or such persons as they may appoint, on or before the first day of April next; and they shall continue open until the first day of July, unless the capital aforesaid shall be earlier subscribed, at which time the said books shall be returned to the commissioners aforesaid, at the said town of Weldon; and there shall be a general meeting of the said subscribers, at the said town of Weldon, on the said first day of July next, either personally or by proxy, which meeting may continue from day to day until the business thereof be finished; and if it shall appear that ten thousand dollars or more of the capital stock have been subscribed, the 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 and style of "The Weldon Toll Bridge Company," and may sue and be sued as such, plead and be impleaded, defend and be defended, and 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 directed to elect a president and four directors for conducting the business and concerns of said company for one year, and until the next meeting of the stockholders. Every proprietor of stock, by writing under his or her hand, executed before some justice of the peace, may depute any other stockholder to represent him or her at any general meeting; and the votes and

acts of such proxy shall be as effectual to all intents and purposes as if the proprietor himself were personally present.

2. *Be it further enacted by the authority aforesaid,* That if the aforesaid sum of ten thousand dollars shall not be subscribed on or before the said first day of July next, the said commissioners, if directed by a majority of the subscribers at their general meeting, shall again open books of subscription, and keep the same open until the first day of December thereafter, or until the aforesaid sum of ten thousand dollars shall be subscribed as aforesaid; and if more than the capital stock hereby authorized shall be subscribed, the commissioners shall strike off from the said subscription until the capital shall be reduced to twenty thousand dollars; and in striking off subscriptions, they shall begin and strike off a share from the largest subscriptions in the first instance, and continue to strike off one share for all subscriptions under the largest and above one share, until the same shall be reduced to the capital aforesaid.

3. *Be it further enacted,* That the capital sum aforesaid shall be divided into shares of fifty dollars each; and any person may subscribe for one or more shares, but not for a part of a share. The shares shall be paid for at such times and places, and by such instalments as the president and directors of said company shall direct, they first advertising the sum to be paid in each instalment in the Roanoke Advocate, published in the town of Halifax, for at least twenty days; and if any person or persons holding one share or shares in said company, shall fail to pay for the same in the manner, and at the time prescribed by the president and directors aforesaid, the said president and directors may enforce the collection thereof by legal process, or they may expose to public sale the share or shares which such person may hold in the said company, by giving ten days' public notice thereof; and if the said shares shall not sell for a sum sufficient to pay the instalment or instalments due thereon, the sum deficient may be recovered of the person or persons who own the said stock; and the books of the said company shall be good evidence of such sale, and of the purchase of said shares.

4. *Be it further enacted,* That the general meetings of the said company, after the year one thousand eight hundred and thirtytwo, shall be held at the said town of Weldon, on the first Monday of May in each and every year, or at such other time and place as the stockholders in general meeting shall prescribe; and the said president and directors shall have full power and authority to commence work on the said bridge, or to enter into contract for building the same or any part thereof, whenever the said sum of ten thousand dollars shall have been subscribed as aforesaid, and to make and establish all such rules and regulations for the proper conduct and management of the affairs and concerns of said company, as they in their discretion may deem expedient.

5. *And be it further enacted,* That the said president and directors shall have power and authority to build a gate or gates on the said bridge to be erected as aforesaid, and to ask, demand and receive from persons passing over the said bridge not more than the

following toll, to wit : for every four wheel pleasure carriage, seventyfive cents ; for every two wheel pleasure carriage, twenty-five cents ; for every wagon, sixty cents ; for every cart, twenty-five cents ; for every man and horse, ten cents ; single horse, five cents ; foot passenger, five cents ; head of horned cattle, three cents ; hogs and sheep, two cents each.

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

7. *And be it further enacted*, That unless the company hereby created shall commence the building of the said bridge within three years, and complete the same within seven years after the passing of this act, the corporate powers hereby granted shall cease and determine ; and that the corporation hereby created shall not continue in any event longer than ninety years, unless the same be continued by an act of the General Assembly.

AN ACT TO AMEND AN ACT, ENTITLED "AN ACT TO AUTHORIZE THE BUILDING OF A TOLL BRIDGE OVER ROANOKE RIVER AT THE TOWN OF WELDON, AND TO INCORPORATE A COMPANY FOR THAT PURPOSE."

(Passed in 1833.)

Whereas it has been represented to this General Assembly that the capital stock, authorized to be raised by the above recited act, is insufficient to build the contemplated bridge in the most durable and substantial manner : For remedy whereof,

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That the capital stock of the Weldon Toll Bridge Company be, and the same is hereby increased to fifty thousand dollars ; and it shall be lawful to open books of subscription on the first day of February next, for raising the additional stock hereby created, under the superintendence of A. Joyner, Thomas F. Wiatt, Richard H. Weaver, Rice B. Pierce and William H. Day, or any three of them, and under the direction of such other persons as they may appoint, and to continue the same open until the fifteenth day of November, one thousand eight hundred and thirty-four, unless the capital aforesaid should be earlier subscribed, in which case the books shall be immediately closed.

2. *Be it further enacted*, That the additional stock hereby created shall be paid for in the same manner, and stand in all respects upon the same footing, terms, conditions, limitations and restrictions as the original stock of twenty thousand dollars, authorized to be raised under the provisions of the said recited act.

3. *And be it further enacted*, That it shall be lawful for the president and directors of the Weldon Toll Bridge Company to call meetings of the said company, at such times and places as they may deem proper, whenever the business of the said company shall render the same necessary.

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

AN ACT TO INCREASE THE CAPITAL STOCK OF THE WELDON TOLL BRIDGE COMPANY.

(Passed in 1835.)

Be 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 seventyfive 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 authorized to be created.

2. *Be it further enacted,* That the subscribers to the additional stock hereby authorized 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.

3. *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 authorized 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.

S H O R T N O T I C E

OF THE

EARLY HISTORY OF NORTH CAROLINA,

WITH A LIST OF THE

G O V E R N O R S ,

UNDER THE PROPRIETARY, REGAL AND PRESENT GOVERNMENT.

THE first permanent settlement in North Carolina is believed to have been formed immediately subsequent to the expulsion of the Quakers from Virginia, in 1662. (See *Bancroft's History of the United States*, Vol. II., ch. *Carolina*.)

In that year Cistooaneu, king of the Yeopim Indians, granted to George Durant, the neck of land which separates Little and Perquimmons rivers, at their entrance into Albemarle sound; and on the 1st of April, 1663, Sir William Berkley, Governor of Virginia, granted a portion of the same tract to George Cathmaid, under the following description: "3,350 acres lying and being on the north side of Roanoke (now Albemarle) abutting southerly on the said sound, easterly on Katotin (now Little) river, westerly on Perquimmons, which issueth out of the said sound, and northerly on the Owasoke creek, which issueth out of Perquimmons river and the woods; the same being clear unto the said Cathmaid *per transportationem of sixtyseven persons*." These are the oldest land titles, and *Durant's Neck* in Perquimmons county, probably the earliest settlement in Carolina.

On the 24th of March, 1663, King Charles the Second granted Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkley, all the country from the Atlantic to the Pacific ocean, included between the 31st and 36th parallels of north latitude. The territory was erected into a province by the name of *Carolina*, of which the grantees were lords proprietors.

On the 8th of September, 1663, Sir William Berkley, Governor of Virginia, one of the proprietors, was instructed to visit the settlement on Albemarle and organize a regular government. George Drummond was appointed governor, assisted by a council of six

persons, and the infant colony was from that period known as the *county of Albemarle, in the province of Carolina*.

On the 30th of June, 1665, the second charter of Charles the Second was obtained, enlarging the powers of the grantees, and extending the boundaries of the province from the southern boundary of Virginia (36 deg. 30 min.) to Florida, (29 deg.)

The area of Carolina under this charter, was a million of square miles, quite equal to one half the territory of the United States, according to our present limits. It included a large part of Mexico, all Texas, all our territory south of 36 deg. 30 min. and west of Arkansas, and all the cotton-growing states of the Union, viz. North and South Carolina, Georgia, Tennessee, Arkansas, Alabama, Mississippi and Louisiana.

The first legislative body known to the history of Carolina, convened according to Chalmers (*Hist. Col. of S. Carolina*, Vol. II., p. 284,) in 1666, and petitioned the lords proprietors to permit the people of Albemarle, to hold their lands upon the same terms that the people of Virginia held theirs. Governor Drummond was succeeded by Samuel Stevens, in October, 1667. He was instructed to act with the concurrence of a council of twelve, six of whom were to be appointed by himself, and the other six to be chosen by the delegates of the freeholders. The governor, the council, and twelve delegates chosen by the freeholders, constituted "The Grand Assembly of Albemarle."

On the 29th May, 1664, ("Brief Description of Carolina," printed by Robert Horne, 1666,) Sir John Yeamans, at the head of 800 colonists from Barbadoes made the second* settlement that was attempted on the Cape Fear river. It was organized into the *second government* established in Carolina, and received the name of the *county of Clarendon*. The first *Charlestown* in Carolina was projected by Governor Yeamans, and is supposed to have been situated at the confluence of Oldtown creek with the Cape Fear, in the county of Brunswick, on the plantation now owned by Thomas Cowan, Esq. At this period the *county of Albemarle* included the country between Virginia and the Cape Fear, and the *county of Clarendon* was spread over the region between Cape Fear and Florida.

In 1670, Governor Sayle landed at Port Royal and laid the foundation of a *third government* in Carolina. He fell an early victim to the diseases of the climate, and in August of the following year, the authority of Governor Yeamans of *Clarendon*, was extended over this colony. Governor Yeamans removed immediately to the latter settlement, and on the first year of his administration founded *Old Charleston* on the banks of Ashley river, which continued to be the metropolis of the colony until 1680, when the present city of *Charleston* was built upon the neck of land between Ashley and Cooper rivers. The colonists who accompanied Governor Yeamans from Barbadoes to Cape Fear, are believed to have followed him with great unanimity on his mi-

* A few individuals settled on Cape Fear, then called Clarendon river, in 1659, and deserted the country in 1663.—(See *Martin's Hist. N. Carolina*, p. 126-137.)

gration southward. In the year 1690, no settler remained, and with his administration the history of *Clarendon* as an independent government ceases.

The Fundamental Constitutions of Carolina, drawn up by the celebrated author of the "Essay on the Human Understanding," bears date on the 1st of March, 1669. Governor Stevens and Governor Sayle were required to organize their respective governments under them in the following year, at which time Graham (*Hist. U. States*, Vol. II., p. 107) states, that John Locke was created a landgrave, and was one of the three hereditary nobles of Carolina, of the first order.

Between the years 1671 and 1685, that part of the province south of the county of Clarendon, was divided into the counties of Craven, Berkley, Colleton, and Carteret.

Craven extended from the Santee to the Sewee; Berkley, from the Seewee to the Stono; Colleton, from the Stono to some point beyond Edisto; and Carteret, stretching from thence to Florida, was uninhabited.

In 1697, that portion of the province north of the Santee river, (the county of Albemarle and the uninhabited county of Clarendon,) acquired the distinctive appellation of North, and the four southern counties that of South Carolina.—(See *Oldmixon's Carolina*, *Hist. Col. of S. C.* Vol. II, pp. 444, 445; *Chalmer's Political Annals*, *idem.* 327; *Williamson's Hist. North Carolina*, Vol. I, p. 162; *Archdale's Carolina*, published in 1707.)

Having traced thus briefly the history of the several settlements in Carolina, from their origin until the period at which they were all merged into North and South Carolina, no reference will henceforth be made except incidentally to the southern government.

Willet GOVERNORS OF THE COUNTY OF ALBEMARLE.

GEORGE DRUMMOND , appointed in the autumn of	1663
SAMUEL STEVENS , appointed October,*	1667
Peter CARTWRIGHT , † president of the council,	1674
Thomas MILLER , ‡ appointed president of the council, July,	1677
JOHN CULPEPPER , usurped the government,	Dec. 1677
JOHN HARVEY , § appointed president of the council,	1680
JOHN JENKINS , appointed governor,	June, 1680
HENRY WILKINSON , appointed governor,	Feb. 1681
SETH SOTHEL , ¶ appointed governor,	1683

* Died early in 1674.

† Resigned and returned to England early in 1676.

‡ In November, 1676, Governor Eastchurch was sent out from England to Albemarle. He stopped in the West Indies, and having been detained by "an agreeable engagement," did not arrive until some time after Culpepper's rebellion in December, 1677. He died in the midst of unsuccessful efforts aided by the governor of Virginia, to suppress the insurrection, and thus, having won the lady, lost his government and his life.

§ In the beginning of the year 1680, the proprietors sent out Seth Sothel as governor, who was taken by the Algerines on his voyage thither. In February, 1681, Henry Wilkinson was appointed "governor of that portion of Carolina stretching from Virginia to the river Pamlico, and five miles beyond it." (*Chalmer's Pol. Annals*, *Hist. Col. S. C.*, vol. II, p. 309.)

|| Died December, 1681.

¶ After Sothel's expulsion from Albemarle, he went to Charleston, was elected governor of that part of the province in 1690, and was impeached and expelled therefrom two years thereafter. Impeached and expelled by parliament, 1688.

1 *Peter Carteret succeeded Stephens*

PHILIP LUDWELL,* appointed governor,	1689
ALEXANDER LILLINGTON, appointed deputy governor,	1693
THOMAS HARVEY, appointed deputy governor,	1695

The fundamental constitutions were abrogated in Carolina in the month of April, 1693. At the same period the authority of Governor Ludwell was extended over the four southern counties. He assumed the title of Governor of Carolina, and fixed his residence at Charleston. From the accession of Governor Ludwell to the government of Carolina, (April, 1693,) until the 24th of January, 1712, the northern part of the province (Albemarle) was ruled either by deputy governors, appointed by the governor of Carolina, at Charleston, or by a president of the council, elected by the lords proprietors. In all other respects the two governments, North and South Carolina, were entirely independent of and distinct from each other, and even separated by a wide wilderness, and a well defined boundary, the Santee river.

GOVERNORS OF CAROLINA FROM APRIL, 1693, TO JANUARY, 1712.

PHILIP LUDWELL, appointed	1693
THOMAS SMITH, do.	1693
JOSEPH BLAKE, do.	1694
JOHN ARCHDALE, do.	1695
JOSEPH BLAKE, do.	1696
JAMES MOORE, do.	1700
NATH'L JOHNSTON, do.	1703
EDWARD TYNTE, do.	1706
ROBERT GIBBES, do.	1710

GOVERNORS OF NORTH CAROLINA UNDER THE PROPRIETARY GOVERNMENT.

HENDERSON WALKER,† president of the council,	1699
ROBERT DANIEL, appointed deputy governor,	1704
THOMAS CAREY, “ “ “	1705
WILLIAM GLOVER, president of the council,	May, 1709
EDWARD HYDE, “ “	August, 1710
EDWARD HYDE, appointed governor,	Jan. 24th, 1712
THOMAS POLLOCK, president of the council,	Sept. 12th, 1712
CHARLES EDEN,‡ took the oath of office as governor,	May 28th, 1714
THOMAS POLLOCK,§ president of the council,	March 30th, 1722
WILLIAM REED, “ “	Sept. 7th, 1722
GEORGE BURREINGTON, governor, (took oaths of office,)	Jan. 15th, 1724
SIR RICHARD EVERARD, governor, (took oaths of office,)	July 17th, 1725

* Appointed governor of Carolina, 1693.

† Died the 14th of April, 1704.

‡ Died 26th of March, 1722.

§ Died August 30th, 1722.

In 1729, all the lords proprietors, except John Lord Carteret, sold their shares of Carolina, and surrendered the government to the crown. Thus ended the proprietary government, sixtysix years after the charter by which it was established.

GOVERNORS UNDER THE ROYAL GOVERNMENT.

GEORGE BURREINGTON,* governor, (took oath of office,)	Feb. 25th, 1731
NATHANIEL RICE, president of the council,	April 17th, 1734
GABRIEL JOHNSTON,† governor, (took oaths of office,)	Nov. 2d, 1734
NATHANIEL RICE,‡ president of the council,	1752
MATTHEW ROWAN, “ “	Feb. 1st, 1753
ARTHUR DOBBS,§ governor, (took oaths of office,)	Nov. 1st, 1754
WILLIAM TRYON, “ “ “ “	Oct. 27th, 1764
JAMES HASEL, president of the council,	July 1st, 1771
JOSIAH MARTIN,¶ governor, (took oaths of office,)	August, 1771

GOVERNORS UNDER THE CONSTITUTION.

	Elected.		Elected.
RICHARD CASWELL,	Dec. 1776	DAVID STONE.	do. 1803
ABNER NASH,	do. 1779	BENJAMIN SMITH,	do. 1810
THOMAS BURKE,	do. 1781	WILLIAM HAWKINS,	do. 1811
ALEXANDER MARTIN,	do. 1782	WILLIAM MILLER,	do. 1814
RICHARD CASWELL,	do. 1784	JOHN BRANCH,	do. 1817
SAMUEL JOHNSTON,	do. 1787	JESSE FRANKLIN,	do. 1820
ALEXANDER MARTIN,	do. 1789	GABRIEL HOLMES,	do. 1821
RICHARD D. SPAIGHT,	do. 1792	HUTCHINS G. BURTON,	do. 1824
SAMUEL ASHE,	do. 1795	JAMES IREDELL,	do. 1827
WM. R. DAVIE,	do. 1798	JOHN OWEN,	do. 1823
BENJAMIN WILLIAMS,	do. 1799	MONTFORT STOKES,	do. 1830
JAMES TURNER,	do. 1802	DAVID L. SWAIN,	do. 1832
NATHANIEL ALEXANDER,do.	1805	RICHARD D. SPAIGHT,	do. 1835
BENJAMIN WILLIAMS,	do. 1807	EDWARD B. DUDLEY,**	Jan. 1, 1837

* Fled to South Carolina, April, 1734.

† Died 1752.

‡ Died the 28th of January, 1753.

§ Resigned, Oct. 27th, 1764.

|| June, 1771, appointed Governor of New York.

¶ Abdicated and took refuge on board the Cruizer sloop of War in Cape Fear, August, 1775.

** Governor Dudley was elected under the amended constitution, by the people in the summer of 1836, but did not qualify and enter upon the duties of his office until the first day of January, 1837.

SKETCH OF THE JUDICIAL HISTORY

OF

NORTH CAROLINA,

WITH

A LIST OF THE JUDGES AND ATTORNEY GENERALS
SINCE THE ADOPTION OF THE CONSTITUTION.

UNDER the proprietary government, the judicial authority seems to have been divided among the precinct courts, the general court, and the court of chancery. Commissions to hold the precinct courts were issued by the governor to four justices of the peace, two of whom were of the quorum, and the court was regularly organized, when either of the latter was present together with one or more of the associate justices. The jurisdiction of the precinct courts extended to all civil causes under the value of five pounds sterling or one thousand pounds of tobacco, and to all "felonious witchcrafts, enchantments, sorceries, magic arts, trespasses, forestalling, regratings, extortions, unlawful assemblies," &c. ; provided "that if a case of difficulty upon the determination of any of the premises should happen to arise," or the offence "relate to the taking away of any one's life, member or estate," all such matters of difficulty should be referred to the governor, deputies, and rest of the grand council.*

The general court† was held by the chief justice represent-

* The commission from which the above extracts are taken, is the oldest public record in North Carolina; it bears date the 3d December, 1679, and is directed to George Durant, Alexander Lillington, Ralph Fletcher and Caleb Calloway, Esquires, of Berkley (now Perquimmons) precinct. The minute docket of Berkley precinct court upon which it is recorded, is preserved in the superior court clerk's office of Perquimmons county.

† The earliest record of this court, extant, is the minute docket of "the General Court held for that portion of Carolina, north and east of Cape Fear," at the house of Capt. John Hacklefield, on Little River, on the 28th October, 1712. On the 29th of March, 1715, it was removed to the house of Capt. Richard Sanderson; on the 31st of July, 1716, to "Queen Anne's creek at the court house," and on the 24th March, 1722, it was opened at Edenton. The following is the caption of the term.

"NORTH CAROLINA, ss.

"At a general court, held for the said province at the court house in Edenton on Queen Anne's creek, on Tuesday, the 27th March, 1722. Present, Christopher Gale, Esquire, Chief Justice. The Lords Proprietors commission to Christopher Gale, Esq. Chief Justice was read and published, the commission to the assistants being voyd, by the demise of the late Governor Eden."

The docket closes with July term 1724, is closely and well written, containing 425 pages with index and marginal notes. The pleadings are entered at length and with technical accuracy. On the "General Court Docquet" for July, 1742, there are 250 trial causes and 64 appearances.

ing the palatine, and seven assistants representing the other proprietors.

The court of chancery* was held by the governor and the lords proprietors' deputies.

In 1746, (Swan's Revisal, ch. 2, p. 224,) the court of chancery and the general court were removed from Edenton to Newbern, and the judicial system which had been undergoing gradual improvement from the termination of the proprietary government in 1729, was entirely remodelled.

Under the system then established (1746) "the supreme or general court," was held twice a year, by the chief justice, and three associate justices, under the name of "the General Court of North Carolina." Courts of assize, oyer and terminer, and general gaol delivery were held semiannually by the chief justice at Edenton, Wilmington, and at the court house in Edgecomb county. All writs were issued out of the general court at Newbern, and the records after issue made up, were removed by writ of *Nisi Prius* to the proper place for trial, "in the same manner, according to the method, and as near as might be, agreeable to the practice of the court of common pleas or king's bench at Westminster."

In 1767 (Davis's Revisal, edition of 1775, p. 372, ch. 1 and 2) the province was divided into six judicial districts, Wilmington, Newbern, Edenton, Halifax, Hillsborough and Salisbury, and a superior court was required to be held twice a year in each district by the chief justice, and two associate justices. "Inferior courts of pleas and quarter sessions," were at the same time established in each county. Martin Howard was appointed chief justice, and Maurice Moore and Richard Henderson associate justices, who continued to hold their offices until March, 1773, when, in consequence of a contest between the governor and the assembly on the subject of the attachment law, the act of 1767, was permitted to expire, and the superior courts were thus abolished. †

The first General Assembly organized under the State Constitution, convened at Newbern, on the 8th April, 1777, and at that and the subsequent session in November, in compliance with the ordinance of the convention adopted on the 20th December 1776, *revised the whole body of the statute law*. The act of the November session, known as "*the Court Law*," contains very few provisions, that are not copied literally from the acts of 1767, establishing the superior and county courts, and no change was made in any essential feature of the system. As under the act of 1767, above referred to, the superior courts were required to

* A decree of the court of chancery in the case William Duckinfield *vs.* the heirs of John Arderne, entered on the 11th May, 1713, is recited at length in Swan's Revisal p. 44, and is probably the most ancient memorial of this court, which has come down to the present times.

† The present state of North Carolina is really curious; there are but five provincial laws in force through the colony, and no courts at all in being. No one can recover a debt, except before a single magistrate, when the sums are within his jurisdiction, and offenders escape with impunity. The people are in great consternation about the matter; what will be the consequence is problematical.—*Extract from Diary 5th April 1773.—Memoir of Josiah Quincy, Jr. p. 123.*

be held by the chief justice and two associates, semiannually in each of the districts of Wilmington, Newbern, Edenton, Halifax, Hillsborough and Salisbury.

All our subsequent legislation, has had no other effect than to extend the system of 1767 in proportion to the growth of our settlements, and the increase of our population. In 1782, the judicial district of Morgan, and in 1787, that of Fayetteville was established. Equity jurisdiction was given to the superior courts by the act of 1782, (N. R. ch. 197.) In 1790, (Iredell's Rev. p. 695, ch. 3,) the office of solicitor general was created, a fourth judge appointed, and the eight judicial districts, separated into two ridings. The districts of Morgan, Salisbury, Fayetteville and Hillsborough constituted the Western, and the districts of Halifax, Edenton, Newbern and Wilmington, the Eastern Riding. From 1777 to 1790, three judges and an attorney general, regularly constituted a superior court. From 1790 to 1806, two judges and the attorney or solicitor general were assigned to hold the courts on each riding. In 1806, (N. R. ch. 693,) the circuit court system was extended to the utmost limit, by the establishment of a superior court in each county in the State. To accomplish this object it became necessary to create four solicitorships and appoint two additional judges, and to clothe a single judge with authority to hold a superior court of law and equity. The State was divided into six circuits of ten counties each, the attorney general was assigned to the third, the solicitor general to the fourth, and a solicitor to each of the other circuits, and the judges were required to attend in such a manner, that no judge should be assigned to the same circuit twice in succession. In 1836, the sixth or western circuit was divided into two, the terms which had hitherto been limited to a week were in several counties extended to two weeks, and it thus become necessary to create another solicitorship, and to appoint a seventh superior court judge.

JUDGES OF THE SUPERIOR COURTS SINCE THE ADOPTION OF THE CONSTITUTION.

[In the following list of judges and attorney generals, the term "elected" is used to denote that the office was conferred by the General Assembly. The term "appointed" signifies that the office was originally conferred by the governor and council, in which case, the commission expired at the close of the ensuing session of the legislature; and it will be found so mentioned, unless the appointee was continued in office under an election by the General Assembly.]

(First period from 1777 to 1790, during which time three judges constituted the judicial department of the government.)

JOHN WILLIAMS, elected 1777, died October 1799.

SAMUEL ASHE, elected 1777, elected governor 1795.

SAMUEL SPENCER, elected 1777, died 1794.

(Second period from 1790, when the fourth circuit was established, to 1806, when the fifth and sixth circuits were established.)

Judge's salary in 1790, \$1200.

Judges in 1790, JOHN WILLIAMS, SAMUEL ASHE, SAMUEL SPENCER and SPRUCE MACAY.

SPRUCE MACAY, elected 1790, died 1808.

JOHN HAYWOOD, elected 1794, resigned May 31st, 1800.

DAVID STONE, elected 1795, resigned 1798.

ALFRED MOORE, elected 1798, appointed associate justice of the supreme court of the United States, Dec. 10th, 1799.

JOHN LOUIS TAYLOR, elected 1798, appointed judge of the supreme court of North Carolina, 1818.

SAMUEL JOHNSTON, appointed Feb. 10th, 1800, resigned Nov. 18th, 1803.

JOHN HALL, elected 1800, appointed judge of the supreme court of North Carolina, 1818.

FRANCIS LOCKE, elected 1803, resigned Feb. 7th, 1814.

(Third period from 1806, when the fifth and sixth circuits were established, to 1818, when the supreme court was established.)
Judge's salary in 1806, \$1600.

Judges in 1806—SPRUCE MACAY, JOHN LOUIS TAYLOR, JOHN HALL, FRANCIS LOCKE, DAVID STONE, SAMUEL LOWRIE.

DAVID STONE, elected 1806, elected governor 1808.

SAMUEL LOWRIE, elected 1806, died December, 1817.

BLAKE BAKER, appointed 1808, commission expired December, 1808.

LEONARD HENDERSON, elected 1808, resigned January, 1816.

JOSHUA G. WRIGHT, 1808, died June, 1811.

HENRY SEAWELL, appointed July 5th, 1811, commission expired, 1811.

EDWARD HARRIS, elected 1811, died March 1813.

HENRY SEAWELL, appointed April, 1813, resigned February, 1819.

DUNCAN CAMERON, appointed February 25th, 1814, resigned November, 1816.

THOMAS RUFFIN, elected 1816, resigned December, 1818.

JOSEPH J. DANIEL, appointed March 2d, 1816, elected judge of the supreme court of North Carolina, 1832.

ROBERT H. BURTON, appointed March 5th, 1818, resigned at close of the spring circuit, 1818.

BLAKE BAKER, appointed August 11th, 1818, died at the close of the fall circuit, 1818.

(Fourth period from 1818, when the supreme court was established, to 1836, when the seventh circuit was created.) Salary in 1818, \$1800.

Judges in 1818—HENRY SEAWELL, JOSEPH J. DANIEL, JOHN PAXTON, FREDERIC NASH, JOHN D. TOOMER, ARCHIBALD D. MURPHEY.

JOHN PAXTON, elected 1818, died November, 1826.

JOHN D. TOOMER, elected 1818, resigned 1819.

FREDERIC NASH, " " " " July, 1826.

ARCHIBALD D. MURPHEY, elected 1818, resigned 1820.

JAMES IREDELL, appointed March 10th, 1819, resigned May, 1819.

JOHN R. DONNELL, appointed July 5th, 1819, resigned 1836.

- WILLIE P. MANGUM, elected 1819, resigned 1820.
 WILLIAM NORWOOD, appointed August 17th, 1820, resigned 1836.
 GEORGE E. BADGER, elected 1820, resigned May, 1825.
 THOMAS RUFFIN, appointed July 15th, 1825, resigned 1828.
 WILLIE P. MANGUM, appointed August 18th, 1826, commission expired 1826.
 ROBERT STRANGE, elected 1826, elected senator to congress 1836.
 JAMES MARTIN, elected 1826, resigned 1835.
 WILLIE P. MANGUM, elected 1828, elected senator to congress 1830.
 DAVID L. SWAIN, elected 1830, elected governor 1832.
 HENRY SEAWELL, elected 1832, died October, 1835.
 THOMAS SETTLE, elected 1832, }
 ROMULUS M. SAUNDERS, " 1835, }
 JOHN M. DICK, " 1835, } Judges in 1837.
 JOHN L. BAILEY, " 1836, }
 FREDERIC NASH, " 1836, }
 RICHMOND M. PEARSON, " 1836, }
 JOHN D. TOOMER, " 1836, }

Salary of the superior court judges in 1837, \$1950.

THE SUPREME COURT.

The supreme court system of this State, had its origin in an act passed in 1799 (N. R. p. 887,) "directing the judges of the superior courts to meet together to settle questions of law or equity arising on the circuit, and to provide for the trial of persons concerned in certain frauds." The judges were required to meet at Raleigh twice a year for these purposes, but it was not contemplated that they should do so, after the trials of the individuals concerned with the secretary (J. Glasgow) in the famous land frauds were terminated. In 1801 (N. R. p. 941) the act of 1799 was continued in force for three years and the meeting of the judges was styled the court of conference. By the act of 1804, (N. R. p. 1020) the court was made a permanent tribunal, the judges were required to reduce their opinions to writing, and deliver them *viva voce* in open court. In 1805 (N. R. p. 1039) the style of the court of conference was changed to that of the Supreme Court of North Carolina. In 1808 (N. R. p. 1137) the clerk was directed to report the decisions of the court and in 1810 (*idem*, p. 1169) the judges were authorized to appoint one of their number chief justice, and at the January term of the following year, John Louis Taylor was appointed to that office. In 1818 (N. R. p. 1433) the constitution of the court was entirely changed. The judges of the superior courts were excused from attendance upon this tribunal, and restricted to the discharge of circuit duties. Three judges were elected by the General Assembly, to constitute the supreme court, who were to hold their offices during good behavior, and receive an annual salary of twentyfive hundred dollars. They were required to meet twice a

year in the city of Raleigh, to determine questions of law arising upon the circuits, and equity causes which had been set for hearing in the courts below, and removed to this court by consent or on affidavit, and to continue in session until every cause upon the docket was disposed of; or regularly continued. The amended constitution adopted in 1835, recognizes the court as a permanent institution, and secures judicial independence by providing that the salary of no judge of the superior or supreme courts, shall be diminished during his continuance in office.

JUDGES OF THE SUPREME COURT.

JOHN LOUIS TAYLOR, elected 1818, died January, 1829.
 LEONARD HENDERSON, " 1818, died August, 1833.
 JOHN HALL, elected 1818, resigned December, 1832.
 JOHN D. TOOMER, appointed June, 1829, resigned December, 1829.
 THOMAS RUFFIN, elected 1829.
 JOSEPH J. DANIEL, " 1832.
 WILLIAM GASTON, " 1833.

At the commencement of the first term of the court held on the first Monday of January, 1819, John Louis Taylor was appointed by his brethren chief justice. He was succeeded in this office at the first term after his death (June term, 1829) by Leonard Henderson, and at the first term after the demise of Judge Henderson (December term, 1833) Thomas Ruffin was appointed to the same office.

SUPREME COURT JUDGES IN 1837.

THOMAS RUFFIN, *Chief Justice.*
 JOSEPH J. DANIEL, } *Judges.*
 WILLIAM GASTON, }

ATTORNEY GENERALS.

WRIGHTSTILL AVERY, elected 1777, resigned 1779.
 JAMES IREDELL, appointed November 20th, 1779, resigned.
 ALFRED MOORE, " 1790.
 JOHN HAYWOOD, elected 1791, appointed judge, 1794.
 BLAKE BAKER, " 1794, resigned 1803.
 HENRY SEAWELL, " 1803, " 1808.
 OLIVER FITTS, " 1808, appointed judge of Mississippi territory 1810.
 WILLIAM MILLER, appointed August 21st, 1810, commission expired 1810.
 HUTCHINS G. BURTON, elected 1810, resigned November 21st, 1816.
 WILLIAM DREW, elected 1816, resigned November 21st, 1825.
 JAMES F. TAYLOR, " 1825, died June 27th, 1828.
 ROBERT H. JONES, appointed July 31st, 1828, commission expired 1828.
 ROMULUS M. SAUNDERS, elected 1828, resigned 1834.
 JOHN R. J. DANIEL, elected 1834.

INDEX

TO

VOLUME SECOND.

ARTICLES OF CONFEDERATION.

Articles of confederation and perpetual union between the states of New Hampshire, Massachusetts Bay, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia, 510.

ATTORNEY GENERAL.

A list of the attorney generals of North Carolina since the adoption of the constitution, 532.

BANKS.

"The President, Directors and Company of the Bank of Cape Fear," incorporated in 1804, 37.
Act authorizing the treasurer to subscribe for two hundred and fifty shares, passed in 1807, 41.
Amended charter passed in 1814, 42.
Amended charter passed in 1833, 47.
Charter further amended by an act passed in 1834, 54.
Charter still further amended by act of 1836, 54.

"Bank of the State of North Carolina," incorporated in 1833, 57.
Supplemental act passed in 1833, 65.
Charter amended by an act passed in 1834, 65.

"President and Directors of the Merchants' Bank of Newbern," incorporated in 1834, 66.
Charter amended by an act passed in 1835, 72.

"South Western Rail Road Bank," incorporated in 1836, 73.

BANK OF CAPE FEAR.

Bank of Cape Fear—Original charter in 1804, 37.
Treasurer to subscribe for 250 shares, 41.
Their notes receivable in payment of public dues, 42.
Amended charter passed in 1814, 42.
Treasurer to subscribe for one thousand shares, 44.
One hundred and eighty of these shares to be a bonus to the State, 44.
Four hundred and ten shares to be paid for when the State thinks proper, 44.
Upon these four hundred and ten shares the State to be entitled to the excess of dividend above six per centum per annum, 44.
Upon the other shares, full dividends, 44.
Amended charter passed in 1833, 47.
Corporation continued till 1855 with a capital of eight thousand shares, 47.
In meetings of the stockholders the State to be represented by a person appointed by the governor or the legislature, 48.
What vote he shall be entitled to, 48.
How the stockholders shall vote, 48.
How a general meeting of the stockholders may be called, 48.

BANK OF CAPE FEAR, (*Continued.*)

- Eleven directors to be appointed, four by the representative of the State, and seven by the stockholders, 48, 55.
 - President to be chosen by a majority of the directors, 48.
 - His salary to be fixed by the stockholders, 49.
 - President and directors to establish branches or agencies, 49, 55.
 - To appoint officers and regulate their duties and compensation, 49.
 - Cashier to give bond in twentyfive thousand dollars, 49.
 - Bank bound to loan the State, if required, one tenth of its capital at a rate of interest not exceeding six per cent. 50.
 - Statement of the situation of the bank to be furnished the treasurer every six months, 50.
 - Tax to be paid annually of twentyfive cents on each share of stock owned by individuals, 50.
 - Stock of the bank transferable, 50.
 - Bills, bonds and notes signed by the president and countersigned by the cashier to be binding on the corporation, 50.
 - Their notes if not paid when presented, to bear twelve per cent. interest, 50.
 - No note to be issued under three dollars, 50.
 - What real estate the corporation may hold, 50.
 - In what it shall trade, 51.
 - Not to take on its loans more than at the rate of half per centum for thirty days, 51.
 - No note to be discounted, unless made payable and negotiable at the bank or its branches, 51.
 - Fraud of any director or officer deemed felony, 51.
 - Cashier to keep minutes of the proceedings of the board of directors, which shall be evidence in courts, 51.
 - The bank not to issue more than twice the amount of its capital stock actually paid in specie or its equivalent, 52.
 - The president to furnish the legislature annually with a statement of the condition of the bank, 53.
 - Penalty on the president or other officers for making false returns of the state of the bank, 53.
 - Payments on loans upon pledge of stock to be the same as on loans on personal security, 53.
 - Stockholders residing in any one of the United States entitled to vote, 54.
 - Bank to receive the public money in deposit, 54.
 - Charter extended to the year 1860, 54.
 - An addition of seven thousand shares to the capital stock, 54.
 - The State to subscribe three, and individuals four, thousand shares, 54.
 - The corporation may hold property not exceeding three millions of dollars, exclusive of their capital stock, 55.
 - In meetings of stockholders the representative of the State entitled to three votes for every six given by individual stockholders, 55.
 - Three directors with the president to form a quorum, 55.
 - The bank not to owe more than twice the amount of its capital, over and above its capital stock and deposits, 56.
 - Capital stock may be reduced by consent of General Assembly, 56.
 - Bank may deal in any public debt, created by this State, 56.
- BANK OF THE STATE OF NORTH CAROLINA.**
- Capital stock one million five hundred thousand dollars in shares of one hundred dollars, 57.
 - Stockholders incorporated, 57.
 - State to subscribe three hundred thousand and individuals nine hundred thousand dollars, 57.
 - How the directors shall be appointed, 59, 65.
 - Public treasurer to be a director *ex officio*, 60.
 - President to be chosen by the directors and his salary fixed by the stockholders, 60.
 - Branches and agencies to be established by the stockholders, 60.
 - Their capitals to be assigned, and five directors for each branch and one agent for each agency, to be appointed by the principal directors, 60.
 - Dividends to be made semiannually, 60.
 - Annual statements of the condition of the bank to be made to the treasurer to be laid before the General Assembly, 60.
 - Tax of twentyfive cents on each share owned by individuals, 61.
 - President and other officers liable to indictment and punishment for making false returns, 61.
 - Committee of the legislature may inspect their books, 61.

BANK OF THE STATE OF NORTH CAROLINA, (Continued.)

- Stockholders, who are citizens of the United States entitled to vote, in person or by proxy, 61.
- How the stockholders shall vote, 61.
- To what vote the State shall be entitled and how it shall be given, 62.
- None but a stockholder eligible as a director, 62.
- Emoluments to be allowed only by the stockholders or directors of the principal bank, 62.
- Majority of the directors with the president to constitute a board, 62.
- How a meeting of stockholders may be called, 62.
- Cashiers and agents to give bonds, 62.
- Punishment for embezzlement or fraud, 62.
- What real estate the bank may hold, 62.
- How their bills, &c. shall be assignable, 63.
- Their bills and notes, signed by the president and countersigned by the cashier of the principal bank, to be binding on the corporation, 63.
- In what the bank may deal, 63, 65.
- No to take more than six per centum per annum on its loans or discounts, which may be received in advance, 63.
- Process in case of violation of its charter, 63.
- Notes of the bank refused to be paid when presented, to bear twelve per cent. interest, 63.
- Penalty for forging and counterfeiting, &c. their notes, &c, 64.
- No note to be issued under three dollars, 64.
- The bank not to have in circulation more than twice the amount of its capital, 64.
- Cashier to keep minutes of the proceedings of the directors, which shall be evidence in courts, 64.
- Cashier to take an oath, 64.
- The bank shall receive public money in deposit, 65.

BEACON—See *Cessions to the United States*.

BILL OF RIGHTS.

Bill of Rights passed in the first year of the reign of William and Mary, 505.

BOUNDARY OF THE STATE.

- With Virginia, 82.
- With South Carolina, 82, 83, 84, 85, 86, 87, 88, 89, 90.
- With Georgia, 90, 91, 92, 93, 97.
- With Tennessee, 93, 94, 95, 96, 97.

BOUNDARIES OF COUNTIES.

- Anson, 97.
- Ashe, 98, 99.
- Beaufort, 99, 100, 101, 102.
- Bertie, 102.
- Bladen, 103, 104, 105.
- Brunswick, 106, 107.
- Buncombe, 107, 108.
- Burke, 108, 109.
- Cabarrus, 110, 111.
- Camden, 111, 112.
- Carterct, 112.
- Caswell, 113.
- Chatham, 113.
- Chowan, 114.
- Columbus, 115, 116.
- Craven, 117.
- Cumberland, 118, 119.
- Currituck, 119.
- Davidson, 119, 120.
- Davie, 120.
- Duplin, 121, 122, 123.
- Edgcomb, 124, 125, 126.
- Franklin, 127, 128.
- Gates, 129.
- Granville, 130.

BOUNDARIES OF COUNTIES, (*Continued.*)

Greene, 130, 131, 132, 133.
 Guilford, 133.
 Halifax, 133.
 Haywood, 134.
 Hertford, 135.
 Hyde, 136.
 Iredell, 137.
 Johnston, 133, 139.
 Jones, 139, 140.
 Lenoir, 141, 142.
 Lincoln, 142, 143, 144.
 Macon, 144.
 Martin, 145, 146.
 Mecklenburg, 146, 147.
 Montgomery, 147, 148.
 Moore, 148, 149.
 Nash, 149.
 New Hanover, 150, 151.
 Northampton, 151.
 Onslow, 152.
 Orange, 152, 153.
 Pasquotank, 154.
 Perquimons, 154.
 Person, 154.
 Pitt, 155.
 Randolph, 156.
 Richmond, 156.
 Robeson, 157.
 Rockingham, 158.
 Rowan, 158.
 Rutherford, 159, 160.
 Sampson, 161.
 Stokes, 162.
 Surry, 162, 163, 164.
 Tyrrel, 164.
 Wake, 165.
 Warren, 166.
 Washington, 167.
 Wayne, 168.
 Wilkes, 169, 170.
 Yancey, 170, 171.

BUNCOMBE TURNPIKE COMPANY.

Books to be opened for subscriptions, 418.
 When a certain amount is subscribed, a general meeting of the subscribers to be held, 418.
 Company incorporated; its name and style, 418, 419.
 President and directors to be elected, 419.
 Stockholders may vote by proxy, 419.
 Provision in case more or less than a certain amount be subscribed, 419.
 Of what amount the shares shall be, 419.
 Public treasurer to subscribe for the State, 419.
 How the instalments shall be paid, 419.
 Stock may be sold in default of payment, &c., 419.
 President and directors may make contracts for constructing and improving the road, 419, 420.
 President and directors may appoint a treasurer, clerk, &c., 420.
 How a general meeting shall be constituted, 420.
 President and directors to be elected annually, 420.
 President and directors to make annual reports, 420.
 Dividends to be declared, 420.

BUNCOMBE TURNPIKE COMPANY, (Continued.)

- How the votes shall be counted on the shares, &c., 420, 421.
- Profits vested in the stockholders for a certain time, 421.
- Rates of toll allowed to be taken by the company, 421.
- What shall be the width and inclinations of the road, 421.
- Road to be a public highway, 422.
- Lands may be purchased by the company, through which to build the road—In case of disagreement with the owners, how the lands shall be obtained, 422.
- Lands may also be procured for building toll houses, &c., 422.
- Stock may be assigned, 422, 423.
- Hands liable to work on this road, 423.
- When ten miles of the road are completed, tolls may be collected, 423.
- Full toll not to be taken for passing over a certain part of the road, 423.
- Charter may be repealed, if its object be not attained, 423.
- Officers of the company may be called to account by the General Assembly, 423, 424.
- Charter amended in certain particulars, 424.
- Company to elect a president and director, who together with the director appointed by the public treasurer shall manage the concerns of the corporation, 424.
- President and directors to continue in office if a majority of the stockholders be not represented in any general meeting, &c., 424.
- Company may alter and improve the direction of their road, 424.

CAPE FEAR NAVIGATION COMPANY.

- Books of subscription to be opened, 263, 264.
- When half the capital shall be subscribed, the company shall be declared to be incorporated, and may elect a president, &c., 264.
- The president and directors to contract for opening the navigation, &c., may appoint officers, &c., 265.
- Payments for shares of stock, when and how to be made, &c., 265.
- President and directors, how to be continued, &c., 265.
- President and directors to take oaths, 266.
- General meetings, when and where to be held, 266.
- Property vested in company, &c., 266, 267.
- Rates of toll, &c., 266, 267.
- Manner of obtaining lands, &c. for buildings, 267.
- Manner of transferring shares, 267.
- Time granted for finishing the work, 268.
- Company may hold, &c. real estate, 268.
- In suits for any thing done under this act, it may be given in evidence under the general issue, 268.
- Act amending the charter passed in 1797, 268.
- Annual meetings, where to be held, 268.
- Power of company to remove obstructions, &c., 268.
- Company to close the books of subscription at their discretion, 268.
- Additional act amending the charter passed in 1815, 268.
- Rights and privileges of the company to be the same with those of the Roanoke Navigation Company, 268, 269.
- To extend from the source to the mouth of the river, 269.
- Power of the board to improve the navigation, 269.
- General meetings to be held in Fayetteville, 269.
- Books to be opened for an increase of stock, &c., 269.
- Regulations for opening the books and taking subscriptions, &c., 269.
- Condition upon which this act is to take effect, 270.
- Books to be deemed evidence of the sales of shares, 270.
- Tolls may be altered, &c., 270.
- Treasurer of the State authorized to borrow of the banks, &c., 270.
- Banks, &c. authorized to subscribe, 270.
- Capital may be enlarged, 270.
- Toll bridges may be built, &c., 270.
- When there shall be an excess of shares, how they shall be stricken off, 271.
- State to appoint a director when she holds shares, 271.
- Former company to make known their acceptance of this act amending their charter, 271.

CAPE FEAR NAVIGATION COMPANY, (*Continued.*)

Style of corporation under amended charter, 271.

Act amending the amended charter in certain particulars, passed in 1821, 271.

Fourth section repealed as respects the Cape Fear Navigation Company, 272.

President, &c. may repeat their call upon stockholders who have failed to pay, &c., 272.

Additional act concerning the company, passed in 1823, 272.

Board of internal improvements authorized upon certain conditions to subscribe twentyfive thousand dollars in behalf of the State to the capital stock, 272, 273.

Act amending the several acts relating to the company passed in 1832, 273.

Boats, &c. seized by any collector for toll, may be relieved by the owner, &c., 273, 274.

Collector to have the authority of a sheriff in executing a writ, 274.

Masters, &c. of vessels to render a true list of all articles on board liable to toll, under the penalty of five hundred dollars, 274.

Persons resisting the collector in the performance of his duty liable to indictment, 274, 275.

CESSIONS TO THE UNITED STATES.

Tennessee, 171.

Light-houses at Ocracock and Cape island, 174, 184.

Fort at Smithville, 175, 178, 180, 181.

Fort at Beacon island, 175, 182.

Light-house at Cape Hatteras, 175, 177, 187.

Light-house at Shell Castle, 176.

Purchases by the United States, from individuals, for the purpose of forts, ceded to the United States, 178.

Light-house at Cape Lookout, 179.

Fort at Old Topsail inlet, 180, 185.

How the United States are to obtain sites for forts and light-houses when the owners are unknown or refuse to sell, 181, 183.

Beacon at Federal point, 183.

Fort at Oak island, 184.

Light-house on Neuse river, 186.

Light-house on Roanoke marshes, 187.

Light-house on Pamplico point, 187.

CHARTERS.

Second Charter from Charles the Second to the Lords Proprietors, dated in 1667, 1.

First Charter from Charles the Second to the Lords Proprietors, dated in 1663, 437.

CHEROKEE LANDS.

Lands reserved to the Cherokee Indians, 188.

Penalty for entering, &c. Cherokee lands, 188.

Such entries and grants thereupon void, 188.

All purchases of said lands void, 188.

Penalty on persons purchasing, &c. the same, 189.

No person to hunt, range or drive stock on their lands—Penalty, 189.

Commissioners appointed to survey the lands acquired from the Cherokees in 1817 and 1819, 189.

Duty of the commissioners and surveyors by them appointed, 189.

Three plats to be made—one for governor's office, one for the secretary's, and one for office of clerk of Haywood county court, 190.

Site for public buildings to be selected and reserved, 190.

No land to be surveyed that will not sell for fifty cents an acre, 190.

No part of the land subject to entry, 190.

Directions as to sale, 190, 191.

When grants to be issued, 191.

Bonds to be filed with the treasurer, 191.

Returns to be made by commissioners to the comptroller, 191.

Occupants may be ejected by the purchasers, 192.

Provisions for the sale of the lands unsold in 1820, 192, 193.

Penalty on white men for buying, &c. lands reserved to the Cherokees by the treaties of 1817 and 1819, 193.

White men may extinguish Indians' titles to land sold by the State, and penalties remitted, 193.

Directions for selling the lands acquired from the Cherokees, remaining unsold, 194.

CHEROKEE LANDS, (*Continued.*)

- Commissioners to ascertain what lands are in dispute between Indians and persons claiming under this State, 194.
- To locate a site for a town to be called Franklin, 195.
- Directions for selling the lands acquired from the Cherokees, yet unsold, 195.
- Commissioners appointed to contract with the Cherokees for the purchase of their reservations under the treaties of 1817 and 1819, 196.
- Duty of commissioners, 196.
- Duty of governor in regard to suits brought on Indian titles adjudged to be invalid, 196.
- Provisions for the relief of purchasers of the Cherokee lands sold by the State, 197.
- Provisions for ratifying and carrying into effect the contracts made with Cherokees for the purchase of their reservations, 198, 199.
- Further provisions for the relief of purchasers of Cherokee lands sold by the State, 200.
- Further provisions for the same object, 200.
- Further provisions for the same object, 201.
- Directions for selling the lands yet unsold acquired from the Cherokees by treaties of 1817 and 1819, 201, 202, 203.
- When the governor suspects the validity of a title set up by an Indian, he is to employ counsel in behalf of the purchaser from the State, 203.
- Further provision for the relief of purchasers, 204.
- Provision for purchasers who may have lost their receipts for purchase money paid, 204.
- Further provision for the relief of purchasers, 205.
- Certificate of public treasurer of payment by purchaser to be received as evidence by the secretary of state, 205.
- Public treasurer to deliver to comptroller a statement of the bonds given for Cherokee lands, 206.
- Comptroller to raise an account against the treasurer for the same, and also against the individual obligors, 206.
- Further provisions for the relief of purchasers, 206.
- Where a purchaser has lost his certificate of payment, secretary may issue a grant on his affidavit, 207.
- Provided the affidavit agrees with the books of the office and the treasurer's certificate is produced, 208.
- Directions for the sale of the remaining lands acquired by treaty from the Cherokees, 208.
- Governor to convey certain lands to the justices of Haywood county court at certain prices, 209.
- How bonds payable, 209.
- Justices to dispose of said lands, 209.
- Directions for surveying and selling lands lately acquired from the Cherokees, 209.
- Commissioners to select and reserve a site for public buildings, 210.
- Maps of survey to be deposited in the governor's and secretary's offices, and in the office of the clerk of Macon county court, 211.
- Bonds to be deposited with the treasurer, 212.
- One receipt for the bonds to be filed with the comptroller, who shall raise accounts on them, 212.
- Purchaser may bring action of ejectment in the name of the State, 213.
- That section of country to be part of Macon county, till laid off into a separate county, 213.
- The county site for the county to be erected, to be called Murphey, 214.
- CONSTITUTION—See *Fundamental Constitutions of Carolina.*
- COUNTIES—See *Boundaries of Counties.*

DISMAL SWAMP CANAL COMPANY.

- Dismal Swamp Canal Company incorporated in 1790, 217.
- Books to be opened for taking subscriptions, &c. 217.
- Meeting of subscribers and proceedings thereon, 217.
- Name of the corporation—To choose a president, &c., 213.
- Powers granted to president, &c., 219.
- Subscription money, how to be paid in, 219.
- Succession of president, &c. kept up, 220.
- President and directors to take oaths, 220.
- Number of shares to be represented to constitute a general meeting—Proceedings at such meeting, 220.
- Canals, &c. vested in proprietors, and not to be taxed, 221.

DISMAL SWAMP CANAL COMPANY, (*Continued.*)

- Rates of toll—Toll may be lessened, &c., 221.
- Canal, &c. to be deemed public highways, &c., 221.
- Manner of obtaining lands necessary for the canal, &c., 221, 222.
- Land for buildings, how to be obtained, 222.
- Waters of the lake in Dismal Swamp vested in the proprietors, &c., 223.
- Regulations respecting water works, &c., 223.
- Cross ditches, &c. to drain sunken lands, how to be opened, 223.
- Transfers of shares how to be made, 223, 224.
- Contributions may be recovered, &c., 224.
- Capital may be increased, &c., 224.
- Conditions on which the tolls are granted, 225.
- Time limited for beginning and completing the canal, &c., 225.
- Compact between the commissioners of North Carolina and Virginia, 225.
- Compact ratified, 226, 227.
- Charter of Dismal Swamp Canal Company amended in 1792, 227.
- Width of canal and locks, 227.
- Act of Virginia confirmed, 227.
- The Virginia act of amendment passed in 1790, as confirmed by the act of this State, 228.
- Time of the general annual meeting altered by an act passed in 1797, 229.
- Additional act concerning the company, 229.
- Five years more given to complete their work, 229.
- One road on the bank of the canal sufficient, 229.
- Tolls may be demanded for the use of their causeways or water before the works are finished, 229.
- Act passed in 1825, authorizing an increase of their stock, 230.
- Stockholders to have preference in the subscription of new stock, 230.
- This act to be in force when sanctioned by the stockholders, 230.
- Act passed in 1825 giving the assent of the General Assembly of the State of North Carolina to an act of the General Assembly of Virginia authorizing the Dismal Swamp Canal Company to open a navigable communication between their canal and the nearest navigable part of the Northwest river, passed in 1818, 230, 233.
- Company authorized to clear out the Northwest river, or connect it by a canal with the Dismal Swamp canal, 231.
- Contemplated canal vested in the company, who are authorized to receive tolls, 232.
- Company authorized to construct additional outlets, basins and reservoirs, 232.
- Company empowered to prescribe the number, location, &c. of bridges, &c. across the canal, and to make bylaws, 232.
- If the company fail to commence said work, in two years, subscriptions to be opened at Norfolk for that purpose, 232.
- When said subscription is completed, the company to be organized under the title of the Northwest River Company, 233.
- Shares, on which subscriptions have not been paid, to be sold at auction, 233.
- What tolls the Northwest River Company may take, 233.
- The concerns of said company to be conducted agreeably to the charter of the Dismal Swamp Canal Company, 233.
- Act providing for the removal of the obstructions to the passage of masted vessels from the Dismal Swamp canal to Albemarle sound, 234.
- Commissioners appointed to have a draw fixed in the bridge across Pasquotank river at the expense of the State, 234.
- Counties to keep a draw in said bridge, 234.
- If commissioners fail to have a draw fixed, the bridge to be removed, 235.
- Bridge, if not kept in repair, to be removed, 235.
- Governor to transmit copies of the act to the president of the Dismal Swamp Canal Company, 235.
- Act amending the charter of the said company passed in 1835, 235.
- If the president or one of the directors dies, removes or resigns, &c. the board of directors to supply the vacancy, 235.
- General meetings of the stockholders to be in November in each year, 235, 236.

FAYETTEVILLE AND WESTERN RAIL ROAD COMPANY.

- Company incorporated under the name of "The Cape Fear, Yadkin and Pedee Rail Road Company," 348.
- Rail road to be constructed from Fayetteville to certain points in the west, &c., 349.
- Amount of capital stock—Company to choose ten directors who shall appoint a president, &c., 349.
- Powers of the president and directors, 349.
- Stock may be sold for default in payment, 350.
- Company may make bylaws, &c., 350.
- Rates of toll allowed to be taken for transportation, 350.
- Directors may erect toll gates, warehouses, &c., 350.
- Must report to the legislature—Their books to be open for the inspection of any committee of the legislature, &c., 351.
- How lands may be taken and condemned for the use of the road, &c., 351:
- How lands of *femes covert*, infants, &c. may be obtained, 351, 352.
- Penalty and punishment for obstructing, injuring or destroying said road, &c., 352.
- When general meeting of the stockholders shall be held—How the votes shall be counted, &c., 352.
- How public or private ways shall be crossed, 352.
- State may subscribe for two fifths of the stock, and be represented, &c., 352, 353.
- Persons incorporated to call the first general meeting, giving ten days' notice, &c., 353.
- Board to be organized, and books opened for subscriptions, &c., 353.
- Capital stock may be increased for certain purposes, 353.
- To what points the company may extend the main or any lateral roads, 353.
- President and directors to prescribe the form of certificates of stock, and the manner in which it may be assigned, 353, 354.
- Dividends to be declared, when road is completed, &c., 354.
- Company may construct bridges, &c. and may charge toll when used by others, 354.
- Company may receive donations, borrow money, &c., 354.
- Stockholders may regulate the salaries of the officers, 354.
- General meetings of the stockholders, how to be called, 354.
- Time within which the road shall be commenced and finished, 354.
- General Assembly may authorize the construction of any other road to intersect or be connected with this road, 354.
- The directory of the company to regulate the rates of toll, not exceeding certain amounts, &c., 355.
- Appeal from a justice's judgment allowed, &c., 355.
- Name and style of the company changed to that of the Fayetteville and Western Rail Road Company, 356.
- Route of road changed in certain particulars, 356.
- Capital stock of the company increased, 356.
- Rates of toll to be lessened in a certain event, 356.
- Company may, if approved of by two thirds of the stockholders, improve the navigation of the Yadkin, and possess all necessary rights and privileges for so doing, &c., 356.
- Company to keep a record of their proceedings, &c., 357.
- Time within which a portion of the road must be completed, 357.
- How long the corporation shall exist, 357.
- Produce, &c., to be transported in the order of time in which it was received, 357.
- Property of the company to be deemed personal estate, and not to be taxed, &c., 357.
- Company to give a preference to produce, &c. brought by the North Carolina Central rail road, if said road be constructed to Fayetteville, &c., 357.

FORTS—See *Cessions to the United States*.

FUNDAMENTAL CONSTITUTIONS OF CAROLINA.

Form of government for the Province of Carolina drawn up by John Locke, in 1669, 449.

GEORGIA—See *Boundary of the State*.

GOVERNOR.

A list of the Governors of North Carolina under the proprietary, regal and present government, 522.

GRANTS.

Great Deed of Grant from the Lords Proprietors, 13.

Grant to Earl Granville, 15.

GREENSVILLE AND ROANOKE RAIL ROAD COMPANY.

- Act incorporating said company, passed in 1833, 290.
 Books to be opened for subscriptions, &c., 290, 291.
 Style of the corporation, 291.
 Subscriptions how and when to be paid, 291.
 General meeting to be called—what necessary to constitute such general meeting, 291.
 President and directors to be elected, &c., 291, 292.
 Powers and duties of the president and directors, 292.
 President, &c. may contract for building road, &c., 292.
 If stock shall not be paid for, it may be sold, &c., 292.
 How land may be taken and condemned for the use of the company, 293.
 How wood, gravel, &c. may be taken for the use of the company, 293, 294.
 Company may purchase land for depots, 294.
 How roads or ways may be crossed, &c., 294.
 Company may purchase all machines, &c. necessary for transportation on their road, 294.
 Machines, &c. purchased by said company shall be vested in the stockholders, 294.
 Company, as soon as ten miles of the road shall be completed, shall transport all produce, &c., 294, 295.
 Rates of toll for transporting produce, &c. and passengers, 295.
 Company may receive donations and borrow money, 295, 296.
 Company may construct all necessary bridges, &c., 296.
 Company may erect scales at their toll gates, &c., 296.
 Annual meeting of the stockholders to be held, at which a majority of the shares must be represented, 296.
 How the votes shall be counted, &c., 296.
 President and directors to render annual accounts, &c., 296.
 Semiannual dividends of profits to be declared, 296.
 Penalty for failing to transport produce, &c., 297.
 Penalty for taking illegal tolls, 297.
 Time within which the work must be begun and finished, 297.
 Certificates of shares to be given to the stockholders, which may be assigned, &c., 297.
 How land may be condemned for sites for toll houses, &c., 297, 298.
 How long the corporation shall exist, 298.
 The State may charter other roads to connect with this, &c., 298.
 Compensation shall be allowed to the officers, &c. of the company, 298.
 Roanoke Navigation Company may receive the same tolls for articles transported down the river to Wilkins' ferry, as if carried to Weldon, 298.

HALIFAX AND WELDON RAIL ROAD COMPANY.

- Books to be opened for subscriptions, &c., 325.
 How many shares subscribed to authorize the incorporation—Name and style of the company, 325.
 How the instalments shall be paid, 326.
 Commissioners receiving subscriptions to pay over to the president and directors, &c., 326.
 Notice to be given when a certain amount of stock is taken—General meeting to be called, 326.
 President and directors to be elected, &c., 326.
 Annual meetings of the stockholders to be held, 326.
 Powers of the president and directors, 326, 327.
 Stock may be sold for a default in payment, 327.
 Company may enter upon lands, &c.—How such lands shall be condemned for the use of the road, 327, 328.
 Duty of the freeholders appointed to value lands taken by the company, 328.
 Freeholders to make a report to court, &c., 328, 329.
 Company may enter upon lands before they are condemned, &c., 329, 330.
 If company do not proceed to have land condemned and damages assessed, proprietors may, 330.
 Company may enter upon any adjacent lands to take wood, stone, earth, &c.—How damages for the same to be assessed, &c., 330, 331.
 How common roads and ways may be crossed, &c., 331.
 Company may purchase machines, &c. for their road, 331.
 All such machines, &c. and the works of the company to belong to the stockholders, 331.
 Rates of toll to be taken by the company, 331.

HALIFAX AND WELDON RAIL ROAD COMPANY. (*Continued.*)

- Company may also charge for storage, &c., 331.
- Rates of toll to be lessened under certain circumstances, 332.
- Where toll gates may be erected, 332.
- How the votes shall be counted upon the shares, 332.
- Majority of the stock to be represented at meetings of the stockholders, 332.
- President and directors to render accounts to the annual meeting of the stockholders, 332.
- Dividends to be declared when the road is completed, 332.
- Penalty for taking unlawful toll, 332.
- Time within which the road must be commenced and completed, 332.
- Certificates of stock to be given to the stockholders, 333.
- Such certificates may be assigned, how, 333.
- Lands may be purchased for depots, &c., 333.
- Penalty for injuring or destroying any of the works of the company, 333.
- Punishment for placing obstructions on the rail road, 333.
- Charter of the company subject to be altered, &c. by any future legislature, except in certain particulars, 333.
- No other company, or person to use the road without the permission of this company, &c., 333, 334.
- Stock of the company to be increased, 334.
- Additional stock to be put upon the same footing with the original stock, 334.
- Company authorized to subscribe their stock to the Wilmington and Raleigh Rail Road Company, 334.
- Upon such subscription, all the property of this company shall vest in, and be owned by, the Wilmington and Raleigh Rail Road Company, 335.
- Upon such subscription being made, this incorporation to cease, &c., 335.
- How the assent of the two companies to such subscription shall be evidenced, &c., 335.

HISTORY.

- A short notice of the early history of North Carolina, 522.
- A sketch of the judicial history of North Carolina, 527.

JUDGES.

- A list of the judges of North Carolina since the adoption of the constitution, 523.

LIGHT-HOUSES—See *Cessions to the United States.***LOCKE'S CONSTITUTION**—See *Fundamental Constitutions of Carolina.***LORDS PROPRIETORS OF CAROLINA.**

- First charter granted to the lords proprietors by king Charles the Second, 437.
- Second charter granted to the lords proprietors by king Charles the Second, 1.
- Seven of them surrender their title and interest in the province of Carolina to king George the Second, 466.

LOUISVILLE, CINCINNATI AND CHARLESTON RAIL ROAD COMPANY.

- Company authorized to be formed under the name of the Cincinnati and Charleston Rail Road Company, 394.
- Books to be opened for subscriptions, 394.
- Commissioners to receive five dollars on each share subscribed at the time of subscription, 395.
- Money received on subscriptions to be deposited in bank, 395.
- Central commission appointed—To meet at Knoxville, in Tennessee, 395.
- Said commissioners to ascertain the amount subscribed, and publish the same—If a certain amount be subscribed, &c. the company to be incorporated, 395.
- Central commission to fill vacancies in their body, 395.
- Provision in case the requisite amount be not subscribed, 395, 396.
- If more than a proper amount be subscribed, a reduction to be made, 396.
- If enough be not eventually subscribed, money paid to be returned, 396.
- Powers and rights of the corporation, 396.
- General board of directors to be elected, 396.
- President to be elected by the directors, 396.
- General meeting of the stockholders to be called, 396, 397.
- Board of directors may fill vacancies in their body, and appoint a president *pro tempore*, 397.
- General board of directors may establish local boards, 397.
- President and secretary of the general or any of the local boards may authorize contracts without seal, &c., 397.

- LOUISVILLE, CINCINNATI AND CHARLESTON RAIL ROAD COMPANY. (*Continued.*)
- Contracts to be made by the board not to exceed the amount of the capital of the company, &c. 397.
- Company to construct a rail road on a route, to be determined by the directors, subject to the control of the stockholders, 397, 398.
- No other rail road within a certain distance, to be authorized in a certain time, 398.
- Company may construct branches to their road, 398.
- Company to have the exclusive right of transportation on their road—Rates of toll not to exceed a certain amount, 398.
- Company to be deemed a common carrier, 398.
- How instalments shall be called for and paid, 398.
- Stock may be transferred, 398, 399.
- Company may increase its capital if necessary, 399.
- Company may make temporary investments in the public stocks of certain states, 399.
- Board of directors to make annual reports to the meetings of the stockholders, 399.
- How meetings of the stockholders may be called, &c., 399.
- Who may be president or a director, 399.
- Stockholders may prescribe how their meetings shall be constituted, 399.
- No director or officer of the company to be interested in any contract, nor shall any director vote in any matter in which he has a personal interest, 399.
- No director or officer to purchase lands, &c. on the line of the road, without offering the right of pre-emption to the board, 399, 400.
- How stockholders may vote, 400.
- How the votes shall be counted on the shares, 400.
- Company may purchase and hold lands, &c. necessary for the road, 400, 401.
- Company may conduct their rail road across or along any public road or water course, 401.
- Company may purchase bridges and turnpike roads, with all rights belonging to them, &c., 401.
- How lands may be taken for the road—valuation to be made, and upon its payment, a title to vest in the company, 401, 402.
- Company not to be delayed in their work by the pendency of proceedings to have lands condemned, &c. 402.
- Land, occupied by the road, to be deemed vested in the company, unless owner applies to have damages assessed within five years, &c., 402.
- Vacant land, occupied by the road, to vest in the company, 402.
- Penalty for intruding on the road, 402, 403.
- Such intrusion to be also an indictable offence, 403.
- Punishment and penalty for injuring or destroying any part of the road or works of the company, 403.
- Punishment for obstructing the passage of the road, 403.
- Company may take produce, &c. on storage, and charge therefor, 403.
- Dividends to be made of profits, 403.
- Capital stock, property, &c. of the company, not to be taxed, 403.
- Certain officers of the company excused from jury and ordinary militia duty, 403, 404.
- Company prohibited from banking, 404.
- Powers and privileges of the company restricted to those expressed in their charter, 404.
- When the act of incorporation shall take effect, 404.
- Act of incorporation to be deemed a public act, 404.
- Charter amended in certain particulars, 404.
- How the directors shall be chosen, 404.
- Company discharged from the obligation to construct a branch road in Kentucky, 404.
- Amount subscribed in any state to be applied to building the road within that state, when required by an unanimous vote of the directors residing there, 405.
- If the state of Kentucky should not agree to the amended charter, the company to be incorporated in North Carolina, South Carolina and Tennessee, 405.
- Where the road shall pass in North Carolina, 405.
- This road may be joined by any road authorized by the State of North Carolina, 405.
- Name and style of the company changed to that of the Louisville, Cincinnati and Charleston Rail Road Company, 73.

MAGNA CARTA.

- Magna Carta of king John, 480.
- Magna Carta of king Edward the First, 493.

MANUFACTURES OF SILK AND SUGAR.

- When and how corporations may be formed for these manufactures, 215.
- Corporate privileges, 215.
- Organization of companies to be made known by proclamation of governor, 215.
- Limitation of capital, 215.
- Payment of stock, 215.
- General meetings and election of officers, 216.
- Companies may make contracts, &c., 216.
- Corporations to keep a record of their proceedings, 216.
- Secretary and treasurer to give bonds, 216.
- Officers may be removed, 216.

MERCHANTS' BANK OF NEWBERN.

- Capital stock, three hundred thousand dollars in shares of one hundred dollars, 66.
- How subscribed and paid for, 66, 67.
- Subscribers incorporated, 67.
- Nine directors to be chosen by the stockholders, 67, 72.
- Annual meetings of stockholders, 68.
- A majority of stockholders required at all meetings, 68.
- How they shall vote, 68.
- None but a stockholder and citizen of the State to be a director, 68.
- President to be chosen by the directors, 68.
- Compensation may be granted to the president or directors by the stockholders, 68.
- Five directors, including the president, to be a board, 68.
- How meetings of the stockholders may be called, 68.
- Cashier and other officers to be appointed by the directors, and to give bond, 68.
- Cashier to keep minutes of the proceedings of the directors, which shall be evidence in courts, 68, 69.
- Cashier to take an oath, 69.
- What real estate the bank may hold, 69.
- In what the bank may trade, 69.
- Not to take more than six per centum per annum for its loans or discounts, which may be received in advance, 69.
- Not to owe more than twice the amount of its capital and the amount of its deposits, 69.
- Penalty on directors for excess, 69.
- Vacancies in the directory filled by the other directors, 69.
- Statement of the condition of the bank to be furnished the public treasurer semiannually, 69.
- How their bills and notes shall be assignable, 70.
- Bills and notes, signed by the president and countersigned by the cashier, binding on the corporation, 70.
- No note to be issued under five dollars, 70.
- Notes of the bank, if not paid on demand, to bear twelve per cent. interest, 70.
- Directors issuing more than twice the amount of capital stock, liable individually, 70.
- If the bank becomes insolvent, stockholders liable individually to creditors in double the amount of their stock, 70.
- Penalty on officers for embezzlement or fraud, 70.
- Penalty for forging or counterfeiting, &c. the notes, &c., 71.
- Tax of twentyfive cents on each share of stock, 71.
- Semiannual dividends to be declared, 71.
- Directors liable for dividing more than the profits, 71.
- Statement of the condition of the bank to be reported annually to the General Assembly, 71.
- Penalty on officers for making false returns, 71.
- Proceedings in case of violation of the charter, 72.

NAVIGATION COMPANIES.

- Dismal Swamp Canal Company incorporated in 1790, 217.
- Charter of said company amended by an act passed in 1792, 227.

NAVIGATION COMPANIES, (*Continued.*)

- Act of the Virginia legislature in aid of the said company passed in 1790, and confirmed by the act of this State passed in 1792, 228.
- Act altering the time of the general meeting of said company, passed in 1797, 229.
- Act extending the time within which said company must finish its works, and amending its charter in other particulars, passed in 1799, 229.
- Act authorizing an increase of the stock of said company, passed in 1825, 230.
- Act giving the assent of this State to an act of the General Assembly of Virginia, passed in 1818, authorizing the Dismal Swamp Canal Company to open a navigable communication between the canal and the nearest navigable part of Northwest river, passed in 1825, 230.
- Act providing for the removal of the obstruction to the passage of masted vessels from the Dismal Swamp Canal to Albemarle Sound, passed in 1823, 234.
- Act amending the charter of said company, passed in 1835, 235.
- Roanoke Navigation Company incorporated in 1812, 236.
- Charter of the Roanoke Navigation Company amended by an act passed in 1815, 244.
- Act declaring valid the proceedings of the stockholders of said company, and amending its charter, passed in 1816, 249.
- Act giving the assent of this State to an act of the Virginia legislature, concerning the navigation of the Roanoke river, passed in 1817, 252.
- Act altering the time of the general meeting of the Roanoke Navigation Company, passed in 1819, 262.
- Act authorizing the Board of Internal Improvements to subscribe twentyfive thousand dollars to the capital stock of said company, passed in 1823, 262.
- Act amending the several acts of assembly, incorporating the Roanoke and Cape Fear Navigation Companies, and prescribing the mode for enforcing the collection of tolls, passed in 1832, 273.
- Cape Fear Navigation Company, incorporated in 1796, under the name of the Deep and Haw River Company, 262.
- Act to amend the charter of said company, in certain particulars, passed in 1797, 263.
- Act amending the charter of said company, and altering its name to that of Cape Fear Navigation Company, passed in 1815, 268.
- Act further amending the charter of said company, passed in 1821, 271.
- Act authorizing the Board for Internal Improvements to subscribe twentyfive thousand dollars to the capital stock of said company, passed in 1823, 272.
- Act amending the several acts of assembly incorporating the Roanoke and Cape Fear Navigation Companies, and prescribing the mode for enforcing the collection of tolls, passed in 1832, 273.
- NORFOLK AND EDENTON RAIL ROAD COMPANY.**
- Preamble, 370.
- Books to be opened for subscriptions, &c., 370.
- Certain subscriptions to a former company to be taken as subscriptions for this company, 370, 371.
- Times and places for subscriptions to be advertised—Provision in case more or less than a certain amount be subscribed, &c., 371.
- Company incorporated—Its name and style, 371.
- How the instalments to be paid, &c., 371.
- Notice to be given and a general meeting of the stockholders called, when a certain amount has been subscribed, 371.
- How such general meeting shall be constituted, 371, 372.
- President and directors to be chosen, 372.
- Annual meetings of the stockholders to be held—How such meeting shall be called, 372.
- Powers of the president and directors, 372, 373.
- Stock may be sold in default of payment, 373.
- Company may enter upon lands to make their road—How such lands shall be condemned for the use of the road, and how damages for the same shall be assessed, 373.
- Duty of the freeholders, in assessing damages, &c., 374.
- Freeholders to make a written report—Form of such report, &c., 374.
- Report to be returned to court—Proceedings thereon, 375.
- Company may enter upon lands, &c. before condemnation, and shall not be stopped by any injunction, &c., 375.
- If the company should not proceed to have the land condemned, and damages assessed, owners may, 375, 376.

NORFOLK AND EDENTON RAIL ROAD COMPANY, (*Continued*)

- All machines, &c. and works of the company to belong to the stockholders—The same to be deemed personal estate, and not to be taxed for a certain time, 376.
- Company may enter upon any adjacent lands to take timber, earth, &c.—How the damages for such shall be ascertained and paid, 376, 377.
- How established roads or ways shall be crossed, &c., 377.
- Company may purchase all machines, engines, &c. to be placed on the road, &c., 377.
- Rates of toll to be taken by the company for transportation—May also charge for storage, &c., 377, 378.
- Rates to be lessened in a certain event, &c., 378.
- Company to transport all produce, &c., 378.
- Company may erect toll gates at any points, &c., 378.
- How votes shall be counted on the shares—How all meetings of the stockholders shall be constituted, 378.
- President and directors to render accounts to the annual meetings, &c., 378.
- Dividends to be declared, 378.
- Penalty for taking unlawful toll, &c., 378, 379.
- Time within which the work must be commenced and completed, 379.
- President and directors to have certificates of stock issued—How stock may be assigned, &c., 379.
- Company may purchase lands at the termination or on the line of road, &c., 379.
- Penalty for injuring or destroying any of the works of the company, 379.
- Punishment for placing obstructions on the road, &c., 379.
- Capital stock may be increased if necessary, 380.
- Company may borrow money, &c., 380.
- General Assembly may alter or modify the charter except in certain particulars, 380.
- Company to have exclusive right of transportation on their road, 380.
- State may incorporate companies to intersect or connect with this, 380.
- How long the corporation shall continue to exercise its corporate powers, 380, 381.
- When this act of incorporation shall be in force, 381.

NORTH CAROLINA CENTRAL RAIL ROAD COMPANY.

- Books to be opened for subscriptions, 405, 406, 407.
- Provision in case more or less than a certain amount be subscribed, 407.
- Notice to be given of the times and places for subscription, 407.
- When a certain amount is subscribed the company to be incorporated, 407, 408.
- How the instalments shall be paid, 408.
- Commissioners receiving subscriptions to pay over moneys in their hands, &c., 408.
- Notice to be given when a certain amount has been subscribed, and a general meeting of the stockholders called, 408.
- How such meeting shall be constituted, 408.
- President and directors to be elected, &c., 408.
- Powers of the president and directors, 408, 409.
- President and directors may make contracts for building the road, 409.
- President and directors may call a meeting of the stockholders upon any emergency, 409.
- Stock may be sold upon a default in payment, 409.
- How the company may have land condemned for the use of the road, 409, 410.
- Company may take from any adjoining lands necessary timber, earth, &c. for their road—How the damages for the same shall be assessed and paid, 410.
- Company may purchase lands at any point on the road, for the necessary purposes of the road, &c., 410, 411.
- How established roads or ways shall be crossed, 411.
- Company may purchase machines, &c. for their road, 411.
- All machines, &c. and the works of the company to be vested in the shareholders, &c., 411.
- The shares to be deemed personal estate, and all the property of the company to be exempt from taxation for a certain time, 411.
- Company shall transport all produce, &c.—Rates of toll allowed for transportation, 411.
- Rates to be lessened in a certain event, 411, 412.
- President and directors to make reports to the stockholders, 412.
- Company to have the exclusive right of transportation on their road, 412.
- Company may receive donations, borrow money, &c., 412.

NORTH CAROLINA CENTRAL RAIL ROAD COMPANY, (*Continued.*)

- Company may construct bridges, and demand toll from others using them, 412.
- Company may contract with any turnpike road, bridge or canal company for the use of their roads, bridges or canals, 412.
- Company may erect scales at their toll gates, &c., 412, 413.
- Annual meetings of the stockholders to be held—How such meetings shall be constituted, 413.
- How votes shall be counted on the shares, 413.
- President and directors to render accounts to the annual meetings of the stockholders, 413.
- Dividends to be declared, 413.
- Penalty on the company for failing to transport produce, &c., 413.
- Penalty for taking unlawful toll, 413.
- Time within which the work must be commenced and completed, 413, 414.
- President and directors to issue certificates of stock to the stockholders, 414.
- How stock may be assigned, 414.
- How company may obtain lands for toll houses, &c., 414.
- Punishment for injuring or destroying any of the works of the company, 414.
- Corporation, how long to exist, 415.
- State may authorize any other company to connect with this, &c., 415.
- Compensation to be paid to the officers, &c. of the company to be determined by the stockholders, 415.

PETERSBURG RAIL ROAD COMPANY.

- An act to enact with certain alterations and additions the Virginia act of 1830, chartering said company, passed in 1830, 275.
- Books to be opened for receiving subscriptions, &c., 275, 276.
- Style of the corporation, 276.
- Instalments on stock, how to be paid, 276.
- When general meetings may be called, and what number of shares necessary to constitute such meeting, 276.
- President and directors to be elected—How they may be removed and how vacancies may be filled, 276, 277.
- Power and rights of the president, &c., 277.
- May make contracts, &c. for constructing the road, 277.
- Stock to be sold, upon a failure to pay, &c., 277.
- President, &c. may enter upon lands, &c.—How lands may be condemned, &c. 277, 278.
- Duty of freeholders in assessing damages, &c. 278.
- Freeholders shall report to court—Proceedings thereon, 278, 279
- President, &c. may enter upon lands before damages are assessed, and shall not be stopped by injunction, &c., 279, 280.
- If president, &c. fail to proceed in having damages assessed, owner of lands may do so, 280, 281.
- President, &c. may enter upon adjacent lands to take timber, earth, &c. for constructing road, 281.
- How other roads shall be crossed or intersected, 281.
- President, &c. may purchase machines, &c., 281.
- Machines, &c. purchased with the funds of the company, and their works, vested in said company, 282.
- Company shall transport produce, &c.—Rates of toll, 282.
- President and directors to make an annual report to the Board of Public Works, 282.
- Company may erect scales at their toll gates, 283.
- Annual meeting of the stockholders to be held—Majority of shares must be represented, 283.
- How votes shall be counted, 283.
- President and directors to render accounts to the annual meeting of the stockholders, 283.
- When road is completed, dividends to be declared, 283.
- Penalty for failing to transport produce, &c., 283.
- Penalty for taking illegal tolls, &c., 283.
- When the work is to be begun and finished, 283.
- Certificates of stock to be made out and delivered to each stockholder, 284.
- Such certificate shall be assignable, &c., 284.
- Powers conferred on Board of Public Works may be transferred to any other corporate or natural body, 284.
- How land may be condemned for toll houses, &c., 284.

PETERSBURG RAIL ROAD COMPANY, (Continued.)

- Land may be purchased at the beginning or termination of the road, 284.
- Punishment for injuring or destroying the works, &c. of the company, 284, 285.
- Assent of this State given to the charter as passed by the Virginia legislature with certain exceptions, 285.
- How lands taken for the use of the road in this State shall be condemned, and its value assessed, 285.
- How timber, earth, &c. may be obtained on adjacent lands, and how its value shall be assessed and paid, 286.
- Where the said road shall terminate, 286, 287.
- Land may be purchased at the termination, &c., 287.
- Penalty for injuring or destroying the works, &c. of the company in this State, 287.
- Charter may be altered by the legislature with certain exceptions, 287.
- Tolls may be taken in this State—Accounts to be rendered annually to the legislature, 287.
- For how long the charter shall exist, 287.
- Supplemental act passed in 1832, 288.
- Lands may be purchased for the erection of warehouses, &c., 288.
- Company may charge for storage, &c, 288.
- Punishment for putting obstructions on the rail way, 288.
- Act to amend the charter passed in 1833, 288.
- Company may construct a lateral rail road to Weldon, &c. 288, 289.
- Company may subscribe to the Weldon Toll Bridge Company, 289.
- Rights, privileges, &c. granted to the Petersburg Rail Road Company to be extended to the lateral road, 289, 290.

PETITION OF RIGHTS.

- Petition of rights presented to King Charles the first, 501.
- The king's reply, 504.

PORTSMOUTH AND ROANOKE RAIL ROAD COMPANY.

- Recital of the Virginia act of incorporation, 311.
- Books to be opened for subscriptions, 311, 312.
- How many shares subscribed to authorize the incorporation—Name and style of the company, 312.
- How instalments to be paid—Commissioners to pay over to the president and directors, 312.
- Notice to be given when a certain amount of stock is taken—General meeting to be called, 313.
- President and directors to be elected, &c., 313.
- Powers of the president and directors, 313.
- Stock to be sold for default in payment, &c., 313, 314.
- Company may enter upon lands, &c.—How such lands shall be condemned for the use of the road, 314.
- Duty of the freeholders appointed to value lands taken by the company, 314, 315.
- Company may enter upon lands before they are condemned, &c., 315.
- Work not to be stopped by any injunction, 316.
- If company do not proceed to have lands condemned and damages assessed, proprietors may, 316.
- Company may enter upon adjacent lands to take wood, stone, earth, &c.—How damages for the same to be assessed, 316, 317.
- How common roads or ways may be crossed, &c., 317.
- Company may purchase machines, &c. for their road, 317.
- All machines, &c. and works to belong to the company, and be deemed personal estate, 317.
- Company to transport produce, &c. so soon as ten miles of the road shall be completed, 317.
- Rates of toll to be taken for transportation, 318.
- Annual meeting of the stockholders to be held, 318.
- How votes shall be counted on the shares, 318.
- President and directors to render annual accounts, &c., 318.
- Dividends to be declared, when the road is completed, 318.
- Penalty for taking unlawful toll, 318.
- When the work to be commenced and finished, 318.
- Certificates of stock to be prepared and delivered to the stockholders, 318.
- Such certificates to be transferable—How, 319.
- How lands may be obtained for stations, &c., 319.
- Lands to be vested in company upon paying value, 319.
- Lands may be purchased at the termination of the road, 319.
- Punishment for injuring or destroying any of the works of the company, 319.

PORTSMOUTH AND ROANOKE RAIL ROAD COMPANY, (*Continued.*)

- Trustees of the town of Portsmouth may subscribe fifty thousand dollars to the stock of said company, 319.
- Regulations with regard to such subscriptions, 320.
- Assent of North Carolina given to the charter with certain exceptions, modifications, &c. 320.
- Assent not given to the sections prescribing the manner in which lands may be entered upon and wood, stone and earth, &c. be taken &c., 321.
- How lands may be entered upon by the company, and condemned for the use of the road, &c., 321.
- How wood, stone, earth, &c. may be taken, and damages be assessed therefor, &c., 321, 322.
- Where said road shall terminate in this State, 322.
- Land may be purchased by the company at the point of termination, 322.
- Penalty and punishment for injuring or destroying the works of the company in this State, 322.
- Charter may be altered, &c. except in certain particulars by a future legislature, 322, 323.
- Rates of toll allowed to be taken by the company, &c, 323.
- How long the charter shall exist, 323.
- Charter amended by act of 1833, 323.
- Company may subscribe to the Weldon Toll Bridge Company, and construct rail road thereon, 323.
- Company may transport mail and passengers—Rates of toll allowed therefor, 324.
- Lands may be purchased for depots, &c., 324.
- Company may charge for the storage of produce, &c., 324.
- Penalty for injuring or destroying any part of the road or works of the company, 324.
- Punishment for placing obstructions, &c. on the line of the rail road, &c., 324.
- Company may pursue other remedies, &c. for trespasses on their property, 324.

RAIL ROAD COMPANIES.

- Petersburg Rail Road Company incorporated in 1830 by an act giving the assent of the legislature of this State, with certain modifications, to the charter granted to the said company by the General Assembly of Virginia, 275.
- Charter of said company amended by an act passed in 1832, 288.
- Charter of said company further amended by an act passed in 1833, authorizing them to build a certain lateral rail road, &c., 288.
- Greensville and Roanoke Rail Road Company incorporated in 1833, 290.
- Raleigh and Gaston Rail Road Company incorporated in 1835, 299.
- Portsmouth and Roanoke Rail Road Company incorporated in 1832 by an act giving the assent of the legislature of this State, with certain modifications, to the charter granted to the said company by the General Assembly of Virginia, 311.
- Act amending the charter of said company passed in 1833, 323.
- Halifax and Weldon Rail Road Company incorporated in 1833, 325.
- Act to increase the stock of the Halifax and Weldon Rail Road Company, passed in 1836, 334.
- Said company authorized to subscribe their stock to the Wilmington and Raleigh Rail Road by an act passed in 1836, 334.
- Wilmington and Raleigh Rail Road Company incorporated in 1833, 335.
- Charter of said company amended by an act passed in 1835, 347.
- Fayetteville and Western Rail Road incorporated in 1833, 348.
- Charter of said company amended by an act passed in 1834, 355.
- Charter of said company further amended by an act passed in 1836, 356.
- Raleigh and Columbia Rail Road Company incorporated in 1836, 358.
- Norfolk and Edenton Rail Road Company, incorporated in 1836, 370.
- Roanoke, Danville and Junction Rail Road Company, incorporated in 1835, 381.
- Louisville, Cincinnati and Charleston Rail Road Company, incorporated in 1835, under the name of the Cincinnati and Charleston Rail Road Company, 394.
- Charter amended by act of 1836, 404.
- Name of the company altered to that of the Louisville, Cincinnati and Charleston Rail Road Company in 1836, 73.
- North Carolina Central Rail Road Company incorporated in 1836, 405.

RALEIGH—See *Seat of Government.*

RALEIGH AND COLUMBIA RAIL ROAD COMPANY.

- Books to be opened for subscriptions, &c., 358.

RALEIGH AND COLUMBIA RAIL ROAD COMPANY, (*Continued.*)

- Times and places for subscriptions to be advertised—Provision in case more or less than a certain amount be subscribed, &c., 353, 359.
- When a certain amount is subscribed, company to be incorporated—Its name and style, 359.
- How the instalments to be paid, 359.
- Commissioners for receiving subscriptions to pay over moneys to the president and directors, 359.
- Notice to be given and a general meeting of the stockholders called, when a certain amount has been subscribed, 359.
- How a general meeting shall be constituted, 359, 360.
- President and directors to be chosen, &c., 360.
- Powers of the president and directors, 360.
- President and directors may make contracts for building the road, &c., 360.
- Stock may be sold for a default in payment, &c., 360, 361.
- Capital stock may be increased, if necessary, 361.
- Company may borrow money, &c., 361.
- Company may enter upon lands, &c.—How such lands may be condemned for the use of the road, 361, 362.
- Duty of the freeholders appointed to assess damages, 362.
- Freeholders to make a written report—Form of such report, &c., 363.
- Report to be returned to court—Proceedings thereupon, 363.
- Upon payment of the damages assessed, the land to vest in the company, 363, 364.
- Company may enter upon lands before condemnation, but they shall proceed to have said land condemned, &c., 364.
- Company not to be stopped by any injunction, &c., 364.
- If company fail to institute proceedings to have lands condemned and damages assessed, owners may, 364, 365.
- Written consent of the owner of lands, sufficient to vest title, 365.
- Company may enter upon any adjoining lands to take earth, timber, &c.—How damages for the same to be assessed and paid, 365.
- Penalty on the company for doing wanton injury to lands, &c., 366.
- How common roads or ways to be intersected or crossed, &c., 366.
- Company may purchase machines, &c. to be placed upon their road, 366.
- Machines, &c. and all the works of the company, to belong to the stockholders, &c., 366.
- Said property to be deemed personal estate, and not to be taxed in a certain time, &c., 366, 367.
- Company to have exclusive right of transportation on their road—Shall transport produce, &c., 367.
- No undue preferences in transportation to be given—Penalty for refusing to transport persons and produce, 367.
- Rates of toll allowed to be taken by the company for transportation, 367.
- Company may also charge for storage, &c., 367.
- Company may construct bridges, &c. and demand toll if used by others, 367, 368.
- Dividends to be declared, 368.
- Annual meeting of the stockholders to be held—How such meeting to be constituted, 368.
- How the votes shall be counted upon the shares, 368.
- Annual accounts to be rendered to the meetings of the stockholders, 368.
- Time within which the road shall be commenced and completed, 368.
- President and directors to have certificates of stock issued—Stock, how to be transferred, 368, 369.
- Punishment for placing obstructions on the road, or injuring or destroying any of the works of the company, &c., 369.
- General Assembly may have proceedings instituted, when it is deemed that the charter of the company has been forfeited, 369.
- Books of the company to be open to the inspection of any committee of the legislature, 369.
- President to make a biennial report to the legislature, 369.
- State may authorize any other company to cross this road, 369.
- Company may erect a depot at any point where another rail road may cross this—or upon failure to do so, the State or other company may erect such depot, 369.
- How long this corporation to continue, 369.
- RALEIGH AND GASTON RAIL ROAD COMPANY.
- Books to be opened for subscriptions, &c., 299.

RALEIGH AND GASTON RAIL ROAD COMPANY, (*Continued.*)

- Times and places for receiving subscription to be advertised, 299.
 - Style of the corporation, &c., 300.
 - Stock how to be paid for—Commissioners to pay over moneys, &c., 300.
 - General meeting to be called—What number of shares necessary to constitute such meeting, 300.
 - President and directors to be elected, &c., 300, 301.
 - Rights and powers of the president and directors in constructing road, &c., 301.
 - President and directors may make contracts, &c., 301.
 - If stock shall not be paid for, it may be sold, &c., 301.
 - Capital stock may be increased, 302.
 - President and directors may borrow money, &c., 302.
 - How lands may be taken and condemned for the use of the company, &c., 302, 303.
 - Duty of the freeholders in assessing damages, &c., 303.
 - Freeholders to make report to court, 303, 304.
 - Upon the reports being confirmed and the damages paid, the land shall be vested in the company, 304.
 - Company may enter upon the lands before condemnation, 304, 305.
 - Shall not be stayed by injunction, &c., 305.
 - If company do not proceed to have damages assessed, owners of the land may, 305.
 - When damages are paid, &c., land shall be vested in the company, 305.
 - Company may enter upon adjacent land and take wood, stone, &c.—damages for the same how to be assessed, 305, 306.
 - Company to be liable for wilful injury done to lands, &c., 306.
 - How roads, ways, &c. shall be crossed, &c., 306, 307.
 - Company may purchase machines, vehicles, &c., 307.
 - All machines, &c. and works of the company to belong to them, and to be deemed personal estate, 307.
 - Duty of company in regard to transportation, 307.
 - No preference to be shown—Penalty for not transporting, &c., 307, 308.
 - Rates of toll to be taken for transportation, 308.
 - Company may construct bridges, allow common roads over them, and charge toll, &c., 308.
 - Dividends to be declared, &c., 308.
 - Annual meeting of the stockholders to be held, &c., 308, 309.
 - How votes to be allowed on shares, 309.
 - President and directors to render accounts, 309.
 - When the road shall be commenced and finished, 309.
 - Punishment for injuring or destroying any part of the road, 309.
 - Rates of toll to be reduced under certain circumstances, 309, 310.
 - Who may not be elected president or director, 310.
 - President to report to the General Assembly, 310.
 - General Assembly may direct a *scire facias* when it deems the charter violated, 310.
 - State may authorize other rail roads to cross this, 310.
 - Raleigh and Gaston Rail Road Company may erect depots at the place of such crossing, 310.
 - How long the charter shall be in force, 310.
- ROANOKE, DANVILLE AND JUNCTION RAIL ROAD COMPANY.
- Books to be opened for subscriptions, &c., 331, 332.
 - Times and places for subscriptions to be advertised—Provision in case more or less than a certain amount be subscribed, &c., 332.
 - Company to be incorporated when a certain amount is subscribed—Its name and style, 332.
 - How the instalments shall be paid, 333.
 - Commissioners holding money on subscriptions for stock, to pay over, &c., 333.
 - Notice to be given, and a general meeting of the stockholders to be called, when a certain sum is subscribed, 333.
 - How such meeting shall be constituted, and how annual meetings shall be called, &c., 333.
 - President and directors to be chosen, &c., 333.
 - Powers of the president and directors, 334.
 - Stock may be sold on a default of payment, &c., 334.
 - Company may enter upon any lands to build their road—How such lands shall be condemned for the use of the road, 334, 335.
 - Duty of the freeholders appointed to assess damages, &c., 335.

ROANOKE, DANVILLE AND JUNCTION RAIL ROAD COMPANY, (*Continued.*)

- Freeholders to make out a written report—Form of such report, 385, 386.
- Report to be returned to court—Proceedings thereon, 386.
- Company may enter lands before condemnation, &c., 386, 387.
- Company may take timber, earth, &c. from any adjacent lands—How damages for the same to be assessed and paid, 387.
- If the company should not proceed to have the land condemned and the damages assessed, owners may, 387, 388.
- How established roads and ways shall be crossed, 388.
- Company may purchase machines, &c., 388.
- Machines, &c. and all the works to belong to the stockholders, 388.
- Such property shall be deemed personal estate and shall be exempt from tax, 388.
- Company to transport produce, &c.—Rates of toll to be taken therefor, 388, 389.
- Rates to be lessened in a certain event, 389.
- President and directors to report to the legislature, 389.
- How the votes shall be counted, 389.
- President and directors to render annual accounts to the meetings of the stockholders, 389.
- Dividends to be declared, 389, 390.
- Penalty for failing to transport produce, &c., 390.
- Penalty for taking unlawful toll, 390.
- Time within which the road shall be commenced and completed, 390.
- President and directors to issue certificates of stock to the stockholders—How stock may be transferred, 390.
- How lands may be obtained for depots, &c., 390, 391.
- Land may be purchased by the company at the termination, or any section of the road, 391.
- Punishment and penalty for injuring or destroying any of the works, &c., 391.
- Company to have the exclusive right of transportation upon the road, 391.
- Company may borrow money, &c., 391.
- Company may increase its capital stock if necessary instead of borrowing money, 391, 392.
- State may authorize another road to join this under certain restrictions, 392.
- Punishment for placing any obstructions on the road, &c., 392.
- Written consent of the owner may transfer land to the company, 392.
- Company may change the common roads in certain cases, 393.
- Company may construct bridges, and demand toll from others using them, 393.
- No other road within ten miles and parallel to this shall be authorized in a certain time, provided that it may be joined by certain roads heretofore authorized, 393.

ROANOKE NAVIGATION COMPANY.

- Books to be opened—Amount of capital, 236.
- Return to be made to the secretary's office, 237.
- How the excess of subscription to be stricken off, &c., 237.
- Corporation formed—Its style, 238.
- President and directors—Their power and duties, 238.
- Payment for stock, how and when to be made, 239.
- President and directors, when chosen, 239.
- President and directors to take an oath, 239, 240.
- A majority of shares required to constitute a general meeting, 240.
- Board of directors to report to the general meeting, &c., 240.
- The public works vested in the stockholders, 240.
- Tolls allowed to be taken—Rates of toll, 240, 241.
- When works ready for transportation, company to advertise, 241.
- Returns to be made to the General Assembly, 241, 242.
- The navigation and works to be public highways, 242.
- Company may purchase, or have land condemned for their use, &c., 242.
- Toll houses may be erected, &c., 242, 243.
- Shares may be transferred, 243.
- Capital may be increased, 243.
- When to complete the navigation, 243, 244.
- In suits for any thing done under this act, it may be given in evidence under the general issue, 244.
- No restrictions, &c. to be imposed on the company, 244.

ROANOKE NAVIGATION COMPANY, (*Continued.*)

Repealing clause, &c., 244.

Amended charter, passed in 1815, 244.

Company to notify the governor of their acceptance, &c. of the amended charter, 245.

Books for subscription, when to be opened, 245.

Treasurer to subscribe two hundred and fifty shares for the State, 246.

Style of incorporation—To elect president, &c., 246, 247.

President and directors may employ persons, &c., 247.

Certain sections of the act of 1812 revived, 247.

State's subscription, how to be paid, 247, 248.

Treasurer to vote for the State, &c., 248.

A turnpike road may be constructed around the falls, &c., 248.

Tolls allowed by former act may be altered, 248.

Treasurer authorized to obtain loans of the banks, &c., 248.

Banks and other corporations authorized to subscribe, 248.

Present stockholders to be compensated for surveys, &c. already made, 248, 249.

An act declaring valid the proceedings of a certain general meeting of the stockholders, held at Halifax in 1813, passed in 1816, 249, 250.

Provision for payment of shares, 250.

Former subscribers retained and enrolled in this company, 250.

Place of the annual meetings, 251.

Dividends to be made only upon capital actually paid, 251.

Charter amended in certain particulars, 251, 252.

Act giving the assent of this State to an act of Virginia, passed in 1816, amending the charter of the company, passed in 1817, 252.

Regulations for hiring negroes, 252.

Mode of recovering instalments, 252.

Rights of the North Carolina company extended to that part of the river and its branches which are in Virginia, 253, 254.

Powers of the president and directors, &c., 254.

How lands to be condemned, 254, 255.

Land for toll houses, how to be condemned, 255, 256.

Water in canals, &c. to be used only for navigation, 256.

Roanoke river and its branches to be public highways, 256.

A capital of two hundred thousand dollars created, 256.

Instalments, how to be paid, 257.

Commissioners to return books to president, &c., 257.

Banks, and other corporations may subscribe, 257.

Regulations for collecting instalments, 257, 258.

How shares may be transferred, 258.

Names of stockholders to be returned to Mecklenburg county court, and there recorded, 258, 259.

State to subscribe eighty thousand dollars, provided North Carolina assents to this act, 259.

Books may be opened for increase of capital, 259.

Rights retained by Virginia, 259.

Tolls to be graduated, &c., 260.

Dividends, how to be made, 260.

President, &c. to report to the General Assembly, 260.

How much real estate company may hold, 260.

Hands hired or purchased may be employed in either state, 260.

Tolls, where and how to be collected, 260, 261.

When the navigation must be completed, 261.

Company to accept or reject this act, &c., 261.

Conditional repeal of former act, 261.

Assent of North Carolina given to this act, with a reservation of certain rights, 261, 262.

Company to notify their acceptance of this act, 262.

Toll not to exceed fifteen per cent., 262.

Act fixing the time of the general meetings, passed in 1819, 262.

Act authorizing the board for internal improvement to subscribe twentyfive thousand dollars, upon certain conditions, 262, 263.

SEAT OF GOVERNMENT.

- Ordinance for fixing the seat of government, 415, 416.
- Seat of government fixed upon, 416.
- Proceedings of the commissioners appointed to purchase lands for the seat of government, ratified, 417.
- The plan, &c. of the city, ratified, 417.
- City to be called Raleigh, 417.
- Names of the public squares, 417, 418.
- The General Assembly to meet at Raleigh, at which place also, the chief officers of the State shall reside, 418.

SILK—See *Manufacture of Silk and Sugar*.

SOUTH WESTERN RAIL ROAD BANK.

- Corporators in the Louisville, Cincinnati and Charleston Rail Road Company to form a separate corporation for banking purposes, 73.
- How such banking corporation shall be formed, and amount of its capital, 73.
- Payment of the first instalment, 74.
- Meeting of the stockholders and their votes, 74.
- Stockholders to appoint thirteen directors, 74.
- In case of vacancy, remaining directors to fill it, 74.
- Bank not dissolved by a failure to elect, 74.
- Directors to be stockholders and resident citizens of some of the states, through which the road passes, 74.
- Directors to choose one of their number president, 74.
- President and directors to appoint all other officers, 74.
- No director of another bank to be director of this, 75.
- No person, under protest as drawer or endorser, to be a director, 75.
- How the instalments may be called for and the capital increased, 75.
- Capital and officers of the bank and rail road to be separate, 75.
- Bank not liable for the debts of the rail road, but the rail road company liable for the debts of the bank, 75.
- Annual statement of the affairs of the bank to be made and sent to the governors of the states through which the road passes, 75.
- The principal bank to be at Charleston, and to have branches and agencies with consent of the states, 76.
- To issue no note under five dollars until the road is completed, nor under ten after the completion, 76.
- Amount of notes issued, not to exceed double its capital, 76.
- Notes not paid on demand to bear twelve per cent. interest, 76.
- Restrictions as to its loans on pledge of stock, 76.
- Regulations of its branches, 76.
- Corporate powers of the bank, 76.
- Not to owe more than three times the amount of its capital, exclusive of deposits—Directors liable in case of excess, 77.
- Dividends of profits to be made twice a year, 77.
- Officers of the bank restricted in trade, 77.
- How a meeting of the stockholders may be called, 77.
- What real estate the bank may hold, 78.
- Shares of rail road and bank stock connected, 78.
- Shares transferable, 78.
- Bills and notes, signed by the president and countersigned by the cashier, binding on the corporation and assignable, 78.
- Notes of twenty dollars and under may be signed by the president and cashier of the branch where payable, 78.
- Five directors in the principal bank and four in a branch, to be a board, of whom the president to be one, 78.
- Powers of the directors, 79.
- President, cashier and clerks exempt from serving as jurors or in the militia, 79.
- Bank exempt from tax until rail road finished, and six per cent. per annum shall have been made, 79.
- On dissolution of the bank, property to be held by the directors for the benefit of the stockholders, 79.
- How long the corporation shall continue, 79.

SOUTH WESTERN RAIL ROAD BANK, (*Continued.*)

In what event the act of incorporation shall only extend to South Carolina, North Carolina and Tennessee, 80.

Cases in which the charter may be revoked, 80.

Bank may establish a branch in this State, 80.

Not to be established east of the Catawba, nor to have a capital of more than one million, 80.

Punishment for counterfeiting, &c. notes, &c. of the bank, 80.

Proceedings where the charter is believed to be violated, 80.

Decree of court not to affect the rights of claimants, 81.

Citizens of the United States only to vote at the meeting of stockholders, 81.

No bank corporation to hold shares, 81.

Provision for striking off subscriptions, 81.

SOUTH CAROLINA—See *Boundary of the State.*SUGAR—See *Manufactures of Silk and Sugar.*

SURRENDER.

Act for establishing an agreement with seven of the Lords Proprietors of Carolina, for the surrender of their title and interest in that province to his majesty king George the Second, passed in 1729, 466.

TENNESSEE—See *Cessions to the United States, Boundary of the State.*TOLL BRIDGE—See *Weldon Toll Bridge Company.*

TREATY.

Treaty of peace in 1783, 31.

Treaty declared to be the law of the land, 35.

TURNPIKE COMPANIES.

Buncombe Turnpike Company incorporated by an act passed in 1824, 418.

Charter amended in 1829, 424.

UNIVERSITY OF NORTH CAROLINA.

Act for establishing the University, passed in 1789, 424.

Trustees nominated and incorporated, 425.

Powers of the trustees—Their meetings, general and special, 425, 426.

Power of a special meeting, 426.

Treasurer to be appointed—His duty, 426.

Subscriptions to be a permanent fund, 426.

Directions as to fixing on the place for the University, 426, 427.

Trustees may appoint a president, professors, &c. of the University, 427.

Trustees may make regulations for the government of the University, 427.

Degrees to be conferred, 427.

Certain regulations for the benefit and honor of the subscribers to the University, 427.

Additional act passed in 1789, 427.

Funds appropriated for the purpose of erecting buildings, &c., 427, 428.

Trustees endowed with all escheated property, 428.

Lands of the University not to be taxed, 428.

Act in favor of the University, passed in 1794, 428.

Confiscated property unsold, vested in the trustees, 428, 429.

Trustees to keep and render an account of the proceeds of such property, 429.

How the proceeds to be appropriated, 429.

Act amending the charter passed in 1798, 430.

Presence of the treasurer not necessary to constitute a board for business, 430.

Act further altering and amending the charter passed in 1804, 430.

General Assembly to supply vacancies among the trustees, and may also appoint additional trustees, 430.

Act in relation to the University passed in 1805, 431.

The governor to be president of the board of trustees, 431.

How a trustee's seat may be vacated, 431.

Act concerning the University, passed in 1807, 431.

Seven trustees to form a quorum for business, and to appoint a president *pro tempore*, if necessary, 431.

Act amending the charter of the University passed in 1821, 432.

UNIVERSITY OF NORTH CAROLINA, (*Continued.*)

- Certain persons declared to be trustees, 432.
- Board to consist of sixtyfive trustees, 432.
- Additional trustees to be elected by a joint ballot of both houses of the General Assembly, and vacancies to be filled in the same manner, 432.
- Board may remove a trustee for improper conduct, 432.
- Governor to be president of the board, 432, 433.
- Board to hold a meeting during the session of the General Assembly, 433.
- In case of vacancy in the office of secretary or treasurer during a recess of the board, the governor shall supply it, 433.
- Act further amending the charter of the University, passed in 1824, 433.
- Trustees, at their annual meetings may limit the business of the special meetings, 433, 434.

VIRGINIA—See *Boundary of the State.*

WELDON TOLL BRIDGE COMPANY, 518.

WILMINGTON AND RALEIGH RAIL ROAD COMPANY.

- Books to be opened for subscriptions, &c., 335, 336.
- How many shares subscribed to authorize the incorporation — Name and style of the company, 336.
- How the instalments shall be paid, 337.
- Commissioners receiving subscriptions to pay over to the president and directors, &c., 337.
- Notice to be given when a certain amount of stock is taken — general meeting to be called, 337.
- President and directors to be elected, 337.
- Annual meetings of the stockholders to be held, &c., 337, 338.
- Special meetings of the company, how to be called, 338.
- Powers of the president and directors, 338.
- President and directors may make contracts for making the road, &c., 338.
- Who may not vote at a general meeting — Who may not be elected president or director, 338, 339.
- Stock may be sold for default in payment, &c., 339.
- Debt due for stock to be of the same dignity with judgments in the distribution of assets, &c. 339.
- Company may purchase or take by gift or devise lands, &c. to be applied for the purposes of their road, &c., 339, 340.
- How lands shall be condemned for the use of the road, &c. and how the damages shall be assessed and paid, 340.
- Written assent of the owner, to convey lands, &c., 340, 341.
- Company may enter upon any adjacent lands to take wood, stone, earth, &c.—How damages for the same to be assessed, 341.
- Company may enter upon lands, to survey routes, &c., 342.
- Company may proceed to make their road upon any land before it is condemned—Owner may petition for damages, &c., 342.
- President and directors to determine how instalments to be paid—May purchase all machines, &c. necessary for the road, 342.
- All machines, &c. and the works to belong to the share holders of the company, &c., 342.
- Stock of the company may be increased if necessary, 342.
- Regulations as to how the new stockholders shall be admitted, &c., 342.
- Company may construct branches to the main road, 343.
- Company to have the same powers and rights with regard to the lateral, as to the main road, &c., 343.
- Main road must be constructed before any lateral road is made, &c. 343.
- Restrictions under which another road may intersect with this road, or any of its branches, 343.
- Where a branch of this road is shorter than twenty miles, no other road to be built from its termination to intersect with this, &c. 343.
- When a portion of the road is completed, what rates of toll it may charge, &c., 344.
- How public or private ways shall be crossed, &c., 344.
- Certificates of stock to be issued—Shares of stock may be transferred, 345.
- President and directors may erect warehouses, &c., 345.
- Company may borrow money, &c., 345.
- How the votes shall be counted upon the shares, &c., 345.
- President and directors to render accounts to the annual meeting of the stockholders, 345.

WILMINGTON AND RALEIGH RAIL ROAD, (*Continued.*)

Dividends to be declared when the road is completed, 345.

Time within which the road must be commenced and finished, 345.

Company, how to obtain lands for building toll houses, &c., 345, 346.

Company may construct bridges, and demand toll from other persons using it, 346.

State may authorize other companies to connect with this, 346.

Penalty and punishment for injuring or destroying any of the works of this company, 346.

Capital stock of the company increased, 347.

Company may run their road from Wilmington to some point on the Roanoke river, 347.

 may construct lateral roads, &c., 347.

 may purchase and own steamboats, and charge for freight, passengers, &c., 347.

Time extended for beginning the road, 347.

Company not bound to take produce, &c. at other than their regular depots, &c., 347.





