

# The Star, and North-Carolina State Gazette.

No. 12

RALEIGH, (N. C.) FRIDAY, MARCH 16, 1837.

Vol. XVIII.

## LAWS OF NORTH-CAROLINA,

Passed in 1836-37.

### (BY AUTHORITY.)

An act concerning the swamp and marsh lands in this State, and for other purposes.

Be it enacted by the General Assembly of the State of North-Carolina, and it is hereby enacted by the authority of the same, That the Board for Internal Improvement shall cause to be surveyed one or more of the large marshes or swamps situated between the Virginia line and Roanoke river, between the Virginia line and Albemarle Sound, between the Roanoke river and Albemarle Sound, and the Tar river and Pamlico Sound, between the Roanoke and Tar rivers, between the Tar and Neuse rivers, between the Neuse and Cape-Fear rivers, between the Cape-Fear and Lumber rivers, and between Lumber river and the South-Carolina line; and determine whether it be practicable to drain all or either of said marshes or swamps, the probable cost of such draining, the quality of land that, by such draining, will be reclaimed for cultivation, and the quantity of vacant land, as nearly as the same can be conveniently ascertained; and they shall make a report to the General Assembly, upon the foregoing subjects, and upon others connected therewith, which in their opinion may seem to illustrate the practicability, expediency and utility of draining said marshes and swamps; and how far said drainings, or any of them, can be made subservient to the purposes of inland navigation; and they shall inquire and make report, whether the proprietors of said lands, generally, be willing to contribute a reasonable proportion of the costs which may be incurred in said drainings.

II. Be it further enacted, That for the purposes aforesaid, the Board for Internal Improvement be, and they are hereby authorized to employ one or more competent surveyors; and maps of their respective surveys shall be made out and laid before the General Assembly by the Board for Internal Improvement.

III. And be it further enacted, That to enable the Board to carry into effect the foregoing provisions of this act, they are hereby authorized, from time to time, to draw on the Public Treasurer for such sums of money as may be necessary for that purpose, to be paid out of the fund heretofore set apart and pledged to internal improvement; and such drafts, when paid by the Treasurer, shall be allowed to him in the settlement of his accounts.

And whereas, it is an object of great importance to the health and prosperity of a large portion of the good people of this State, that the marsh and swamp lands should be drained, if the same can be done at a reasonable expense, and it is desirable that a fair experiment be made on some one of the large swamps and marshes aforesaid:

IV. Be it further enacted, That the Board of Internal Improvement be, and they are hereby authorized and directed to select, for that purpose, from the aforesaid marshes or swamps, one that shall contain either the whole or one half of its land vacant, and the owners of the residue shall agree to pay their rateable part of the expense which may be incurred; and after making all surveys necessary for determining the plan of said draining, to cause said plan to be executed, in such manner as to them shall seem expedient, whether the same be by the hire of labourers or by contract; and the Board shall make a special report to the General Assembly upon the work so by them commenced, the plan thereof, the measures adopted for its execution, and the extent and cost of the work done: And to enable the Board of Internal Improvement to carry into effect the provisions of the last section of this act,

V. Be it further enacted, That the aforesaid Board be, and they are hereby authorized to raise, by way of lottery, fifty thousand dollars, and for that purpose may sell, upon such terms as to them shall seem expedient, to one or more persons, the privilege of raising by lottery the money aforesaid: Provided, however, that the State is in no wise to be liable for the payment of the prizes or any other thing in the management of said lottery: Provided, that the Board of Internal Improvement shall not be authorized to commence draining any swamp or marsh land until at least the sum of twenty-five thousand dollars shall have been raised as aforesaid.

An act making compensation to coroners in certain cases.

Be it enacted by the General Assembly of the State of North-Carolina, and it is hereby enacted by the authority of the same, That when any coroner shall hold an inquest over the body of any white person, or free person of colour, found dead within his county, he shall be entitled to receive, for decemly interring said body, from the county trustee, on the order of the County Court, seven justices being present, such sum as said court may deem sufficient, not exceeding ten dollars: Provided the friends of the deceased shall refuse or neglect to inter the said body: which said sum so allowed and paid said coroner, shall be a charge against the estate of said deceased, which the county trustee paying the same, or his successor in office, shall use all lawful ways and means to recover.

II. And be it further enacted, That where the coroner shall hold an inquest over the body of any negro slave found dead in his county, he shall receive from the county trustee upon the order of the County Court, seven justices being present, such compensation as said court may order and direct, not exceeding ten dollars for decemly interring the body of said slaves: Provided, the master or owner of such slave shall fail or refuse to inter the body of such slave, which sum said master or owner shall pay back to said trustee, who is hereby authorized to warrant said master or owner and recover the amount so, as aforesaid, paid to said coroner.

III. And be it further enacted, That nothing herein contained, shall be so construed as to prevent the coroner from receiving such other fees, as are now allowed by law.

An act supplemental to an act, passed at the last session of the General Assembly, entitled "An act to cede to the United States a certain tract of land, called Bogie Banks."

WHEREAS, it appears that, in pursuance of the before recited act, four hundred and five acres, and fifty-nine hundredths of an acre of land, on Bogie Banks, in Carteret county, has been laid off and ceded to the United States, for the purpose of building fortifications thereon; and that said land has been valued by a jury, and the valuation, amounting to the sum of twelve hundred and eighty-seven dollars, has been paid by the United States into the Treasury of North-Carolina, for the use of the owners of said land; but owing to the neglect of the jury in not designating each claimant's rateable proportion of the said sum of twelve hundred and eighty-seven dollars, the Treasurer is unable to make a distribution of the said sum to the satisfaction of the said claimants; 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 Court of Pleas and Quarter Sessions for the county of Carteret be and they are hereby authorized and directed, at the first Court which shall be held after the passing of this act, to appoint five commissioners to view the before mentioned tract of land, and

to cause the same to be surveyed if necessary, so as to ascertain the proportion of the said sum of twelve hundred and eighty-seven dollars to which each claimant may be justly entitled, having due regard to the quantity and value of the lands of the respective claimants; and the apportionment of the said sum, shall be filed with the Public Treasurer, whose duty it shall be to pay over to the respective claimants or their legal representatives, the several sums allotted to each by the commissioners aforesaid.

II. And be it further enacted, That the commissioners aforesaid shall be allowed for their services in this behalf such sum as the said Court of Pleas and Quarter Sessions for the county of Carteret may direct, not exceeding one dollar and fifty cents each per day, for every day they shall be necessarily engaged in the duties required by this act, to be paid by the Public Treasurer upon the certificate of the clerk of the said court.

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

An act prescribing the mode of surveying and selling the lands lately acquired from the Cherokee Indians.

Be 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.

II. 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.

III. 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.

IV. 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.

V. 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.

VI. 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.

VII. 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.

VIII. 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 twenty-four 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.

IX. And be it further enacted, That at the time of said sale, the commissioner or commissioners shall have power to sell lots No. 5, 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.

An act to validate all Grants issued by the Secretary of State, from the twenty-ninth day of November, one thousand eight hundred and twenty-six, to the twenty-ninth day of December, one thousand eight hundred and twenty-six.

Be it enacted by the General Assembly of the State of North-Carolina, and it is hereby enacted by the authority of the same, That all grants, issued by the Secretary of State, from the twenty-ninth day of November, one thousand eight hundred and twenty-six, to the twenty-ninth day of December, one thousand eight hundred and twenty-six, be, and the same are hereby validated and declared good and effectual to pass all the rights of the State in and to the lands therein mentioned; any law to the contrary notwithstanding.

An act to authorize the President and Directors of the Literary Fund to raise money by way of lottery, and for other purposes.

Be it enacted by the General Assembly of the State of North-Carolina, and it is hereby enacted by the authority of the same, That the President and Directors of the Literary Fund be, and they are hereby authorized to raise, by way of lottery, fifty thousand dollars; of which a sum not exceeding twenty-five thousand dollars shall be applied by them toward aiding Archibald D. Murphey, of Orange county, in collecting materials for, and publishing the history of North-Carolina: But before the said money shall be advanced to him, he shall enter into bond to the Governor, and his successors in office, in the sum of twenty thousand dollars, conditioned that if he shall die before the publication of the history aforesaid, his executors or administrators shall, within one year after his decease, file in the Secretary's office, for the use of the State, all the papers, documents, records, pamphlets, and other materials, which he hath collected, or shall collect for said history, including his manuscript of said history.

II. Be it further enacted, That the residue of the money authorized to be raised by this act, shall constitute and form a part of the Literary Fund; and the President and Directors of said Fund are authorized to sell, upon such terms as they, or a majority of them, may deem expedient, to one or more persons, the privilege of raising, by way of lottery, the money aforesaid.

III. Be it further enacted, That no part of the said twenty-five thousand dollars shall be paid to said Archibald D. Murphey, until he shall relinquish all right or claim to the privileges granted to him by an act, passed at the last session of the General Assembly, entitled "An act to encourage the publication of a historical and scientific work on this State;" and that said twenty-five thousand dollars, or so much thereof as the President and Directors of the Literary Fund may, in their discretion, think he will be entitled to, shall be advanced only as the work progresses.

An act further to amend an act, entitled "An act making the protest of a Notary Public evidence in certain cases," passed in the year one thousand eight hundred and twelve.

Be 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 is so amended as to make the protest of a Notary Public evidence of a demand upon the acceptor or drawee of a bill of exchange, in all actions at law against the drawer or endorser of any bill of exchange, if such demand is set forth in said protest.

An act to appropriate five thousand dollars for the purpose of improving the navigation of the Cape-Fear River below Wilmington.

Be it enacted by the General Assembly of the State of North-Carolina, and it is hereby enacted by the authority of the same, That the sum of five thousand dollars, be, and the same is hereby appropriated out of the fund for Internal Improvement, for the purpose of improving the navigation of Cape-Fear River, below Wilmington.

An act directing the time within which suits shall be brought upon Constables' bonds.

Be it enacted by the General Assembly of the State of North-Carolina, and it is hereby enacted by the authority of the same, That all suits on constables' bonds, if the right of action has already accrued, shall be commenced and prosecuted, within three years after the passage of this act, and not afterwards; and all such suits, in case the right of action shall accrue hereafter, shall be commenced and prosecuted, within six years after the said right of action shall have accrued, and not afterwards; Saving, nevertheless, the rights of infants, feme covert, persons non compos mentis, and persons beyond seas, so that they sue within three years after their disabilities are removed.

An act to amend an act, passed in one thousand eight hundred and twenty-two, entitled "An act declaring what hoghead and barrel staves shall be merchantable."

Be 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 red oak hoghead staves, three inches wide, including sap, shall be merchantable; and that so much of the before recited act as requires them to be three and an half inches, be, and the same is hereby repealed.

An act to amend the laws regulating the sale of lands and slaves, so far as respects the counties of Anson, Onslow, Wake, Craven, Mecklenburg, Orange, Cumberland, Nash, Stokes, Guilford, Rowan, Davidson, Columbus, Beaufort, Person, Caswell, Hatteras, Brunswick, Pitt, Hyde, Halifax, Randolph, Wayne, Greene, Robeson, Chatham, Franklin, Warren, Bladen, Duplin and Edgecombe.

Be it enacted by the General Assembly of the State of North-Carolina, and it is hereby enacted by the authority of the same, That the sheriff and other returning officers of said counties, be, and they are hereby authorized to make sale of lands and slaves on the first day of the Superior Courts of Law and Equity for said counties: any law or usage to the contrary notwithstanding.

## UNITED STATES AND GEORGIA.

IN SENATE OF THE U. S.—MARCH 1, 1837.

The Committee to whom was referred the several messages of the President of the United States of the 5th and 8th February, and a report and certain resolutions of the Legislature of Georgia, ask leave to make the following Report:

The Committee have entered on the examination of the subject referred to them, with a deep sense of the magnitude of the questions which it involves; with a strong desire to preserve the respective rights of the United States and of Georgia, so far as these may be affected by the action of the Legislative Department; and with a still more anxious solicitude to arrive, if practicable, at a result which, without violating the obligations, or committing the rights of the Confederacy, or those of one of its members, might preserve, undisturbed, the peace and harmony of the Union.

They have believed that a view of this subject, so far as it is necessary to the purposes of this inquiry, may be presented to the Senate by a brief statement of facts, with reference—

First, To the grounds on which the Executive Government of the United States has interfered, and proposes further to interfere, with the proceedings of Georgia; and

Secondly, To the claims of that State, and the principles on which she relies to support them.

I. Under an act of the Legislature of Georgia, passed in June, 1825, and the supplementary and amendatory acts of the same Legislature, of December, 1825, and 1826, surveys were directed of that portion of the territory of Georgia, the Indian title to which had been extinguished by the Treaty of the Indian Springs, of February, 1825. By the terms of the compact, these lands were not to be surrendered by the Indians, until September, 1826; but the Government of Georgia was desirous of effecting a settlement before the arrival of the period of surrender, under such arrangements as the Indians themselves, as would render the act acceptable to them. The measure adopted to effect this arrangement, and the subsequent division of the tribe intended to it, was put to death, sought the protection of the United States, and the parties, both of whom the Senate. At this period, the Executive Government of Georgia, interposed, and having made such inquiry, as it deemed proper, forbade further prosecution of the survey by Georgia. The Executive of that State, protesting against the measure, nevertheless submitted to the inhibition; and this state of things continued until the last session of Congress, when a new treaty was negotiated at this place, with certain Chiefs and Warriors acting under the authority of a council of the tribe. This com-