

Laws of N. Carolina, passed in 1827-28.

(BY AUTHORITY.)

An act to prohibit vice and immorality, and in the vicinity of the University, and for other purposes.

It is enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That it shall be unlawful for any merchant, shop-keeper or other person at Chapel Hill, or within two miles thereof, to sell any student of the University, goods, wares, merchandise, spirituous liquors or wine, without the consent of the Faculty of the University, or some one of the professors thereof, given in writing; and if any contract for the sale of such articles shall be made, it is hereby declared to be null and void, and no recovery shall be had therefor.

II. And be it further enacted, That any person violating the provisions of this act, shall be deemed guilty of a misdemeanor, and may be indicted and punished therefor in the Superior Court of Orange county.

An act to incorporate the Occocek Navigation Company.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That John Sneed, Moses Jarvis, Samuel Simpson, Sylvester Brown, John M. Roberts, John W. Guion and John F. Burgwin, of Newbern; Hardy Bryan, Nathan Bues and Hinde M'Daniel, of Trenton; Blount Coleman, John C. Washington and Nathan G. Blount, of Kinston; Richard Washington and Arnold Harden, of Wayneborough, Wayne county; William Williams, (Clerk,) Wyatt Myre and Charles H. Harper, of Snow Hill; David Thompson, James Fretick and Byham Bryant, of Smithfield; John G. Blount, Richard Grist and William Ellison, of Washington; Spencer D. Coffin, David Barnes and Joseph R. Lloyd, of Tarborough; John Norcott, Archibald Parker, Ivey Foreman and Benjamin Ashley Atkinson, of Greenville; Elisha B. Smith, David Clark and Andrew Joiner, of Halifax; James Morgan, Benjamin Wynns, Isaac Pipkin and Joseph G. Rea, of Murfreesborough; William M. Clark, Simmons J. Baker and Samuel Nyman, of Williamston; Joseph B. G. Roulhac, Elisha A. Rhodes and James Bryan, of Windsor; Thomas Cox, John S. Bryan and Thomas B. Haughton, of Plymouth; Joseph B. Skinner, George W. Barney and John Cox, of Edenton; William Martin, Isaac N. Lamb and Exum Newby, of Elizabeth City, be, and they are hereby appointed commissioners for receiving subscriptions for a capital stock, divided into shares of one hundred dollars each, for the purpose of improving the navigation of the Swash in Pamptico Sound, near Occocek Inlet; and the commissioners of each of said towns, they and any one, or more of them, shall, at the said towns respectively, on the tenth day of April next, open books, and cause the same to be kept open thirty days; to receive subscriptions of shares in said stock. Each subscriber shall pay down at the time of subscription ten dollars on each share, and shall subscribe a written agreement to pay ninety dollars on each share subscribed, to such person, at such time, and in such proportions, as the President and Directors of the Occocek Navigation Company shall require. On the first Monday of June next, a meeting shall take place, at the town of Washington, of the subscribers, either in person or by their proxies, constituted in writing, attested by a justice of the peace; which general meeting shall continue, from day to day, as long as may be deemed necessary; and to which general meeting, the commissioners shall make return of the subscriptions received by virtue hereof; and if upon the return of the commissioners to the general meeting aforesaid, it shall appear that more than one thousand shares have been subscribed, that then the subscribers attending in person or by proxy, shall reduce the number of shares subscribed to one thousand, by striking off from those who have subscribed the largest number of shares, so many shares as may tend to produce as great equality in subscription as may be; and should this process not be effectual, then by striking off shares by lot; and if from said returns, it shall appear that more than two hundred shares shall have been subscribed, and not more than one thousand shares; or when the shares subscribed shall be reduced to one thousand shares, then the subscribers, their successors and assigns, shall be, and they are hereby created and made a corporation and body politic, by the name and style of "the Occocek Navigation Company," and shall so continue, subject to the conditions hereinafter prescribed, for the term of fifty years; and by that name and style shall be, and are hereby declared able and capable to have, purchase, receive and enjoy to themselves, and their successors, such monies, boats, vessels, tackle, machinery, and other articles, goods and chattels whatever, which may be proper for the purposes of their creation; to sell and dispose of the same; to sue and be sued; to plead and be pleaded, defend and be defended in courts of record or other places whatever; to have a common seal; and to ordain, establish and put in operation such bye-laws, ordinances and regulations as may be expedient for the government of said corporation, and the management of its concerns.

II. And be it further enacted, That it shall be lawful for the stockholders so incorporated, at their general meeting aforesaid, or for a majority of such of them as may attend either in person or by proxy, to declare at what place and on what day the general meeting of the stockholders shall next be had; and for the well ordering of the affairs of said corporation, they shall elect five Directors, to remain in office until the next general meeting; and thereafter every year, on the day and at the place which may from time to time be appointed by the stockholders for that purpose, those attending in person or by proxy shall elect five Directors, to remain in office until the day of the annual meeting in the succeeding year; Provided, that if at any time it happen that an election of Directors shall not be made at the regular day, the Directors last appointed shall continue in office until an election shall regularly be had; and the said Directors shall have power to fill up any vacancy that may happen in their body; to elect one of their own body as President from time to time; to appoint such officers and servants as they think proper, and at their pleasure remove; to require payment from time to time of the sums due on the shares subscribed for, in such instalments as they may deem expedient; to vest the monies received in bank stock or otherwise, so as to render the same productive; to cause the said monies to be faithfully expended in improving the navigation over the shoals in Pamptico Sound, near Occocek Inlet, either by the actual employment of laborers, boats, machines, camels, anchors and other means, or by making contracts with any person or persons to effect the same, and to open books to receive new subscriptions for stock, upon such terms as they may deem reasonable, so that the whole number of shares shall never exceed two thousand, of one hundred dollars each; to make dividends from time to time of the profits of their capital; and generally to do any matter or thing, which it may be lawful for the corporation to do, and which a majority of the stockholders, who may attend in general meeting in person or by proxy, shall or may authorize them to do.

III. Be it further enacted, That it shall be lawful for any person or persons, bodies politic or corporate, to subscribe for shares in the stock of said company; that at all meetings, each stockholder shall be allowed one vote for every share of stock not exceeding ten; one for every three shares over ten, and not exceeding twenty; one for every three shares over twenty, and not exceeding thirty two; one for every four shares over thirty two and not exceeding forty eight; and one for every five shares over forty eight. Every stockholder may vote by proxy, constituted as aforesaid. Shares shall be transferable, as the stockholders or the President and Directors shall direct, and may be forfeited and sold for non-compliance with the bye-laws of the company, by order of the President and Directors. The President and Directors shall be entitled to recover on the subscriptions before

the commissioners, the sums required from time to time to be paid on each share, in an action on the case before a court or any magistrate having cognizance of the sum demanded, with interest from the time when payment ought to be made; and a publication in any newspaper of these requirements of the President and Directors, shall be a sufficient notice to each subscriber. The commissioners shall, each and every of them, immediately upon the appointment of a President and Directors, pay over to them, or their agent for such purpose authorized, all such sums of money as they, or any of them, may have, or ought to have received; and any one failing in this respect shall be liable to pay the said President and Directors double the sum aforesaid, to be recovered in an action of debt before any jurisdiction having cognizance thereof.

IV. And be it further enacted, That it shall be lawful for a majority of the stockholders who may assemble in general meeting, either in person or by proxy, to declare whether any, and if any, what compensation shall be paid to the President or any other officer or servant of the said corporation; to examine the doings of the President and Directors, and other officers and servants of the corporation; to adjust, state and settle their accounts; and to exercise all the powers, which may be proper for correcting delinquency, preventing misapplication and waste, and keeping within the line of their duty all who directly or indirectly may be entrusted with the management of their affairs or engaged in their service.

V. Be it further enacted, That the said company, their agents, servants or contractors shall have power and authority, by any vessels, machines, laborers or other means, to work upon any of the shoals in Pamptico Sound, in order to remove, make or deepen a channel through the same; to fix anchors, to procure, employ and use camels or any other means useful and proper for carrying vessels safely and easily through and over the said shoals; and when they shall, by their labors and exertions, have removed the said shoals, or made or deepened a channel through the same, or furnished and kept in use the means of safe and easy transportation, by camels or otherwise, so that vessels drawing seven feet two inches of water, can pass and repass over the said shoals to and from sea over Occocek Inlet, the said company shall have power to demand and collect a toll on all vessels, (other than public vessels of the United States,) passing the same through the channel by them made or deepened, or over the shoals, by the means by them furnished, at the following rates; that is to say, on vessels whose burthen shall not exceed eighty five tons, for every inch of their draft of water above seven feet, seventy-five cents; between eighty-five and ninety five tons inclusive, for every inch above the same draft, one dollar; between ninety five and one hundred and ten tons inclusive, for every inch above the same draft, one dollar and thirty cents; between one hundred and ten and one hundred and twenty five tons inclusive, for every inch above the same draft, one dollar and fifty cents; between one hundred and twenty-five and one hundred and fifty tons inclusive, for every inch above the same draft, one dollar and seventy-five cents; above one hundred and fifty tons, for every inch above the same draft, two dollars; for which toll the master and owner of said vessel shall be liable; and such vessel shall be detained by the authorized servant of said company until such toll is paid.

VI. And be it further enacted, That unless said company shall within four years from the passage of this act, improve and deepen the navigation aforesaid, or furnish the means of safe and easy transportation, so that vessels drawing eight feet water can safely pass, in consequence of their exertions and means, over the said shoals to and from sea as aforesaid, all the privileges and rights hereby granted to the said company shall cease and determine, save only the right to dispose of the property they may hold, and to sue for and collect monies due them; and saving also to persons having causes of action against said company, the right to sue for the same.

VII. Be it further enacted, That so much of this act as gives authority to demand and receive toll, shall not take effect until the assent of the Congress of the United States is obtained therefor; and the Governor of the State is hereby requested to take measures immediately for obtaining said assent.

VIII. And be it further enacted, That it shall be the duty of the Board for Internal Improvement to cause the said shoals to be examined, in order to ascertain the probable expense of improving the navigation through and over the same, and make report thereof to the next General Assembly; and that the State may, should the next General Assembly so resolve, subscribe a part or the whole of the shares, remaining unsubscribed, of the amount to which, by the previous provisions of this act, the capital stock of the company is permitted to be extended, upon paying and securing to be paid, upon each of such shares, what the several subscribers may have paid, and what said subscribers are liable to pay on each share by them subscribed.

IX. And be it further enacted, That no tax or imposition of any sort shall ever be laid during the continuance of this charter, on the capital stock of the company or the shares therein.

X. And be it further enacted, That if hereafter it should be deemed expedient by the General Assembly that the navigation, as improved by this act, shall be wholly exempted from tolls, the State shall have a right to purchase from the said company a relinquishment of this charter, and of all claims under it, upon such terms as may be agreed upon by the agents of said State and the stockholders other than the State; and if at any time such relinquishment should be required by the State, the subscribers aforesaid shall not require of the State more than such a price as will be sufficient to reimburse the sums actually paid upon their shares, and give them, with the dividends received, or to which they are entitled, an annual profit of twenty per cent. on the sums so paid; and also an extinguishment of all claims upon them because of their liabilities.

XI. And be it further enacted, That this act shall be in force from and immediately after its ratification.

An act concerning the entry of lands now covered by the waters of any of the lakes of this State.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That from and after the passage of this act, it shall not be lawful for any entry-taker to receive any entry or entries of lands now covered by the waters of any of the lakes of this State.

II. And be it further enacted, That every entry made, and every grant issued, contrary to the intent and meaning of this act, shall be void.

III. And be it further enacted, That if hereafter any of the lands covered by the waters of a lake shall be gained therefrom by the recession, draining or diminution of such waters, such lands shall be, and remain the property of the State, and not be liable to entry or grant until special provision shall be made therefor by law.

An act directing what construction shall be given to contingent executory limitations.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That every contingent limitation in any deed or will, made to depend upon the dying of any person without heirs, or heirs of the body, or without issue, or issue of the body, or without children, or offspring, or descendant, or other relative, shall be held and interpreted a limitation to take effect when such person shall die, not having such heir or issue, or child, or offspring, or descendant, or other relative, (as the case may be,) living at the time of his death, or born to him within ten months thereafter; unless the intention of such limitation be otherwise, and expressly and plainly declared in the face of the deed or will creating it; Provided, and be it further enacted, that the rule of construc-

tion contained in this act, shall not extend to any deed or will made and executed before the fifteenth of January next.

An act to compel the County Treasurers of each county to report the expenditures of the county in the prosecution and punishment of insolvent offenders.

Be 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 each and every county trustee in this State, to make out a report of the sums paid by them for the prosecution and punishment of insolvent offenders in their respective counties, from the first of January, 1827, to the 1st of January, 1828, and to distinguish in said report, the sums paid in the prosecution, from those paid in the punishment of said offenders; and also the different crimes, in the prosecution and punishment of which said expenditures may have been made.

II. And be it further enacted, That it shall be the duty of the said trustees to deliver said reports to the sheriffs of their respective counties, before their settlement with the comptroller, directed to the Governor of the State, and it shall be the duty of said sheriffs to deliver the same accordingly; any law, usage or custom to the contrary notwithstanding.

An act to increase the penalty of the official bonds of the Clerks of the several Courts of Record in this State, and to provide for the safe keeping of said 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 from and after the first day of May next, all bonds which shall be given by any of the Clerks of the Superior Courts of Law, Clerks and Masters in Equity, and such of the Clerks of the Courts of Pleas and Quarter Sessions, where the trial by jury shall obtain, for the safe keeping of the records and faithful discharge of the duties of said Clerks, shall be made in the penal sum of ten thousand dollars.

II. And be it further enacted, That it shall be the duty of the Judges of the Superior Courts of Law and Courts of Equity, to cause all bonds taken by them according to the provisions of this act, to be acknowledged or proven before them, and to endorse thereon a certificate of such acknowledgment or probate; and it shall be the duty of the Justices of the Courts of Pleas and Quarter Sessions, to cause all bonds taken before them, according to the provisions of this act, to be acknowledged or proven in open Court, and to endorse thereon a certificate of such acknowledgment or probate, which certificate shall be signed by the justice who presides in Court at the time such acknowledgment or proof is made; and all bonds so taken, proved and certified, shall be deposited in the following offices, viz: bonds of the Clerks of the Superior Courts of Law shall be deposited in the office of the Clerks of the County Courts of Pleas and Quarter Sessions, and the bonds of the Clerks and Masters in Equity, and Clerks of the County Courts of Pleas and Quarter Sessions, shall be deposited in the Office of the Superior Courts of Law of the respective counties.

III. Be it further enacted, That the Clerks in whose offices said bonds shall be deposited, shall cause the same to be immediately registered in the Register's office of the respective counties, and on the destruction or loss of the original, a certified copy of said bonds shall be received in evidence.

IV. And be it further enacted by the authority of the same, That it shall be the duty of the Clerks of the respective Courts aforesaid, safely to keep the bonds deposited in their offices under the same rules and regulations, as are now provided by law for the safe keeping of the records of their respective Courts; any law or usage to the contrary notwithstanding.

V. And be it further enacted, That no Clerk of any County or Superior Court, or Clerk and Master in Equity in this State, shall enter on the duties of his office before he enters into and delivers over to the person authorized to receive the same, the bond required by this act, under the penalty of two thousand dollars, to be recovered before any jurisdiction having cognizance; one half to the use of the person who shall sue for the same, and the other half to the use of the wardens of the poor of the county in which suit shall be brought, and a recovery had.

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

An act to allow the right of challenge to the State in certain cases.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That in all criminal cases of a capital nature, the prosecuting officer in behalf of the State shall have the right of challenging peremptorily four jurors; Provided, the said officer make his election to challenge before the juror is tendered to the prisoner; any law to the contrary notwithstanding.

An act to reduce the number of petty juries to two in a year.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That so much of an act, passed in the year one thousand eight hundred and six, chapter seven hundred and eight, entitled "An act to renew the militia laws of this State relative to infantry," as provides that every captain shall muster his company at least once in three months, be, and the same is hereby repealed.

II. Be it further enacted, That every captain, or commanding officer of a company, shall at least once in six months muster, train, and exercise his company, under the same rules, regulations and restrictions as are already provided by the existing acts.

An act concerning the State Bank of North Carolina.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That the Speaker of the Senate be, and he is hereby authorized and directed to exercise and perform all the duties and powers, in the meetings of the Stockholders, and in the Board of Directors of the State Bank of North Carolina, heretofore exercised and performed by the Treasurer of the State.

II. Be it further enacted, That this act shall take effect from and after the ratification thereof, and shall continue in force until the rise of the Legislature, and no longer.

An act to make provision for widows when they dissent from the wills of their husbands.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That whenever any testator shall hereafter die, leaving his widow him surviving, and said widow shall dissent from the will of her husband, said widow shall be entitled to, and shall recover out of the estate of her husband, one year's provision in the same manner that she would have done, if her husband had died intestate; any law, usage or custom to the contrary notwithstanding.

An act to limit the appointment of Solicitor General and Solicitors to four years.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That any appointment of Solicitor General or Solicitor, hereafter to be made by the joint ballot of both Houses, shall be and continue for four years only from and after the first day of the session wherein the same may be made, and no longer; and that the appointments already made shall continue for four years from the first day of the present session, and no longer.

Affecting Story.—An excellent article on "imprisonment for debt," published in the New York Commercial Advertiser, given the following tale, as an illustration of the effect of existing laws on that subject: And the writer, who appears to be a northern gentleman, affirms that there is not a county in New England, which does not furnish examples of the tyranny of the rich creditor over the poor debtor,

similar to that which was exercised towards Mr. Coffin. Many an analogous case would happen in Pennsylvania, if the amelioration of our laws on the subject did not prevent our merciless Shylocks from wreaking their vengeance on those whom necessity might put into their toils.

A very worthy man who was much respected as a man of singular intelligence, for one in the humbler walks of life, and of great industry, who supported his family, consisting of a wife and three children, on a piece of leased land, unfortunately became indebted to a merchant for 500 dollars. The causes which led him to become a debtor were these: His brother, the mate of a schooner about to sail to some one of the West India Islands, purchased this amount of goods, for what is termed his adventures; in order to procure which, he signed his brother's notes as his security. The vessel was lost. Mr. Coffin, for that was the man's name, called on the merchant, and while he stated his disposition to liquidate this immense debt, so unexpectedly devolving upon him, begged the merchant to show him every indulgence. This was acceded to, and he gave five notes, for 100 dollars each, to be paid during two years.

A series of misfortunes resulting from sickness in his young family, the feeble state of his wife's health, and the loss of cattle, prevented him from paying even the interest on these notes, and the merchant had set them down as debts of no present value. Unfortunately, Mr. Coffin offended the great man of his village by a manly and successful opposition of some measures which he had proposed in one of the town meetings, in the conducting of which he had long reigned without a shadow of opposition. Irritated that one so poor should have thwarted him in his favorite pursuits, he determined on his punishment. The squire, the next visit he made to the town, called on the merchant and stated to him, that as he had some dealings with Mr. Coffin he would purchase the notes in his possession, and offered him 125 dollars for the five notes, which was accepted. The squire felt that the enemy of his greatness was now in his power. He therefore commenced suits on his five notes and recovered judgment on each of them. Two executions were without delay levied on his goods, which were instantly sold; all of which did not more than pay for the principal, interest and cost of the two judgments. Having deplored his home, notwithstanding the severity of the weather, it being November, on the third execution he sent him to jail, which was some miles from his village, without the knowledge of his wife, who had, on the breaking up of their house, hired herself to a farmer as a weaver, and instead of wages was permitted to keep her children with her. The firmness of Mr. Coffin's mind sustained him until he was shut up in the cold and dreary room assigned him in the prison. As the keys were passing the bolts of the door, he sat down on a bench in all the depth of woe and mental anguish. He was conscious of having committed no crime; he had wronged no man; he had made no assistance; he had uttered no complaint when his property was taken from him, for this was of right his creditor's; he still possessed health and vigor, and was as willing as he was able to work as a laborer for the maintenance of his family and the payment of all his debts; and although divested of home, he retained his energy and the power of retrieving his former sources of comfort and independence; but now he was in prison, the place of confinement for those who warred against the laws of God and their country; but he felt that he had not deserved to be classed or treated as one of these; and full of these bitter reflections, he who had never sworn before, now cursed the country which could legalize the tyranny now inflicted upon him. The gloom of his mind gathered darkness as the night advanced, and the severity of the cold gave incensed force to the fierce resentments and the keen sufferings which alternately had possession of his breast. The watches of that long night of misery was passed in meditating revenge at one moment; then sickening to the very heart at the helpless state of his family, and the danger of being a prisoner. Years could not have wrought such deep furrows in his light forehead, as appeared in the morning after that first night's imprisonment. His wife, on the next day, leaving her two youngest children with the keeper, with her two eldest, reached the town in which the prison was situated, but her presence did nothing towards calming the mind of Mr. Coffin, and yet this attachment on her part was what he certainly desired and expected.

Mrs. Coffin hired herself as a servant to a neighboring family, and, with her children, made frequent visits to the prison, where her attempts to relieve the misery of his confinement, frequently aggravated the grief and suffering he would have perished to have lessened. He gradually, however, recovered the tone of feeling natural to him, and, at the end of thirty days, he had no doubt he should be