

Laws of N. Carolina, passed in 1833-4.

(BY AUTHORITY.)

An act to recharter the Bank of Cape Fear.

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 four, 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 thirty five; 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 fifty-five; 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 in execution such by laws, 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 appear necessary, subject, nevertheless, to the rules, regulations and restrictions hereinafter declared and prescribed.

It is 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, co-partnership, 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 held 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.

It is 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 meeting.

It is 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.

It is 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; 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.

It is 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 bye laws, regulations and ordinances of the corporation.

It is 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 twenty five thousand dollars; and every clerk and other officer shall give bond and security for such sum as the directors may require.

It is 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 authorised 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 ex-

empt 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.

It is 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 authorised 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.

It is 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: 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.

It is further enacted, That a tax of twenty-five 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.

It is 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 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 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 any thing 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 or on account of its loans or discounts. 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.

It is 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.

It is 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.

It is 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 enures, 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."

And whereas a part of the capital stock hath heretofore been purchased in by the president and directors and company of the said Bank, and merged, pursuant to an act, passed in the year one thousand eight hundred and twenty-nine, 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 thousand nine hundred and seventy three 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:

It is 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 subscrip-

tions 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, Tarboro, 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.

It is 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 authorised to be taken until the whole amount of said stock shall be realised to the Bank in gold or silver or its equivalent.

It is 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.

It is 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 twenty-nine, 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, that nothing in this act shall be construed as to affect in any manner the right of the State in regard to the tax heretofore due.

It is 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.

It is 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, showing 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 accounts; also specie on hand; debts due from other Banks, and what Banks; the amount of notes or bonds discounted, and of bills of exchange, showing 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.

It is 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 authorised 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.

It is further enacted, That 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.

An act directing the manner in which Constables shall be appointed in this State.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That hereafter there shall not be a greater number of Constables in the several Counties in this State than one in each Captain's district, except the districts including the several county towns in this State; which districts shall be entitled to two constables, to be elected as other constables are hereinafter directed to be elected.

It is further enacted, That at any time within one month preceding the first County Court held in the several counties in this State, after the first day of January next, and annually thereafter, the inhabitants of each Captain's district within the several counties in this State, at the usual place of holding the company musters within said district, shall elect, within the bounds of said company, some fit and suitable person to act in the capacity of a Constable for the succeeding year, who shall be returned and recommended to the Courts of Pleas and Quarter Sessions of said Counties as hereinafter directed; and upon such return being made, under the certificate of the judges appointed to hold said election, the said Courts shall proceed to qualify such person so returned to act as Constable for one year thereafter, or he or they first giving bond with good and sufficient security as by law required: Provided, that no person shall be entitled to vote for any constable of any such town, except he shall live within the corporate bounds of said town; and no person living within the corporate bounds of any such town shall be entitled to vote for constable for the district in which such town is situated.

It is further enacted, That the captains of companies within the several counties in this State, and, in their absence, any justice of the peace within the district, shall, within the time prescribed by the provisions of the second section of this act, and annually thereafter, appoint two discreet and suitable persons to hold said elections, who are required to give at least ten days' notice of such election in two or more public places in such district; and every free white person, having resided for six months next preceding the election within the bounds of said company district, who is qualified and entitled to vote for members of the House of Commons in the State Legislature, shall be entitled to vote within the district in which he shall reside in all such elections; and the persons receiving the greatest number of votes shall be considered duly elected, and shall be returned, under the certificate of said judges, to the first Court of Pleas and Quarter Sessions which shall happen in said county after said election.

It is further enacted, That should any person, elected as Constable under the provisions of this act, die, or from any other cause fail to qualify, and to give the necessary security, or

should any of said companies fail in any manner whatever to hold said elections, then it shall be proper for the Court which shall next happen as aforesaid, seven Justices of the Peace being present, to supply any vacancy occasioned by such failure; and in case there should be a tie in any election as aforesaid, then the Court shall in like manner determine; and also determine in all cases of contested elections; any law, usage or custom to the contrary notwithstanding.

It is further enacted, That this act shall be in force from and after the ratification thereof: Provided, nevertheless, that nothing contained in this act shall be so construed as to prevent justices of the peace from deputising officers to execute process as already provided by law.

It is further enacted, That any person voting at any such election, who shall not by law be qualified to vote, he shall be liable to the same penalty as persons voting at elections for members of the General Assembly of this State, who are not qualified according to law.

Don't believe the newspapers, is a common cant word with some politicians who do not admire the truth. Don't read my speech in the newspapers, says an M. C. unless I myself report it. Take what you see in the papers, says another simpering member of Common Council, with many grains of all-luxance. And why not? What is a newspaper, its uses, appliances, aptitudes, and character, that it should thus be jibed and jeered at?—What is a newspaper? It is an *olla podrida*—an omnium gatherum—a *multum in parvo*—an imperium in imperio—the mirror held up to nature—the very form and pressure of the times—the breathing image and type of this bustling, restless world—a map and picture of human life—the text-book of mortality and record of human thoughts and feelings, and of every accident, ill, event, or circumstance that is heir to, from the helpless infant in the cradle to the powerful despot on his throne—from the humble obscurity of the cottage to the cloud-capt towers and gorgeous palaces—from the peaceful abodes of rural life to the pomp and circumstance of glorious war—the mitred bishop—the plumed helmet—the pale-faced victim of poverty and disease—the pampered glutton—from the ghastly groups of living spectres immured in dungeons to the busbandman that breathes the air of heaven, and, when his daily task is done, slumbers sweetly on his pillow—the haggard politician that "murders sleep" over his midnight lamp, scheming out plans to delude the multitude, and to clutch the glittering diadem of "haunting ambition that o'erleaps itself"—the hardly buytaman, scorning the world's favours, and fearlessly roaming through the trackless forest, or clambering the highest crag of the precipice—the miserable felon in his cell, clanking his chains to beguile away the long agonizing hours that are to make up the measure of his guilty life—the lover, wooing at his mistress' feet—the murderer plunging his poniard in the blood of unprotected innocence—from the student cloistered in the depths of solitude, reveling upon the cobweb fancies of his own ideal world to the strabon on the high and giddy mast, bounding cheerily over the mountain wave, thoughtless of danger or care! All these, and numberless multitudes of minor actors are the *dramatis personae* that successively move through the shifting scenes of the *tableau vivant* of which the columns of a newspaper are the theatre. And what an incongruous and heterogeneous aggregation of discordant materials make up the ingredients of its composition!—of contrasting and wondrous incidents—marvellous tales—mystical enunciations—verbose discourses—metaphysical disquisitions—sportive essays—stern alarms and dreadful accidents—bombastic panegyrics, jests, anecdotes, deaths, marriages, conundrums, enigmas, puns, poetry, acrostics and advertisements, of every shade, color, and form, from grave to gay, from lively to severe—the rainbow, camelion, nor kaleidoscope are more diversified, nor Pandora's box more prolific in its contents, nor the lumber-room of the most cradled brain of the three kingdoms more cluttered up with the *disjecta membra*, the "scattered and patches" of all things on, within, above, or upon the earth—from the aerial ascension of Mr. Durant to the last downward plunge of catarrh-leaping Latchy—from the chase of the sea-serpent and grisly bear to the capture of Black Hawk and the lured frogs—from the Blumess twins to the whims of Latona—from the gold mines of Georgia to the gold vaults of the Bank—from Colonel Crockett whipping his weight in wildcats to Major Downing hamstringing the British at Maudslaws—from Mr. Toney of the Treasury to Mr. Zaney of the Primer—from Alabama squatters to palm-singing Puritans—from Carolina crackers to wooden rutting vendors—from advertising bachelors to crimin. con. clopements—from slander-poisoned paragraphs to pistol-shooting duellists—from Cincinnati pork to Brussels lace—from the Yankee doodle of the menagerie to the *Dalla Giga* of the opera—from logic to physics—from the Five Points to the Magdalen Society—from A. T. Burgundy to the Newmarket races—from Don Miguel to Queen Isabelle—from the Jim Crow of Mr. Rice to the gym-nastics of Mr. Fuller—from the color press to the press on the money market—from Kendall coal to Amos Kendall—from the "Great Mexican" to the Cabinet of the Kitchen—nullification and