

PUBLIC ACTS

STATE OF NORTH CAROLINA, PASSED BY THE GENERAL ASSEMBLY.

At their Session, which commenced on Monday, the sixteenth of November, one thousand eight hundred and forty, and ended on Tuesday, the twelfth of January, one thousand eight hundred and forty-one.

REVENUE.

CHAPTER LI.

An Act to amend the one hundred and second Chapter of the Revised Statutes, entitled "An Act to provide for the collection and management of a Revenue for 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 every Sheriff, when he makes his return of taxes collected, as required by the sixty-eighth section of the one hundred and second Chapter of the Revised Statutes, shall include in the same a list of taxes collected on unlisted property, to be read and published as other lists of taxes specified in said section.

[Ratified, the 12th day of January, 1841.]

ROADS.

CHAPTER LII.

An Act for the benefit of the Raleigh and Gaston Rail Road Company.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That it shall hereafter be lawful for said Company to charge for the transportation of Passengers any sum not exceeding ten cents per mile, any law to the contrary notwithstanding.

II. And be it further enacted, That this Act shall be in force from and after its passage until the end of the next Session of the Legislature.

[Ratified, the 19th day of January, 1841.]

CHAPTER LIII.

An Act to alter and amend the act entitled "An Act to incorporate the North Carolina Central Rail Road Company" passed at the Session of one thousand eight hundred and thirty-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 the twenty-fifth section of an Act, entitled "An Act to incorporate the North Carolina Central Rail Road Company," be and the same is hereby repealed.

II. Be it further enacted, That so much of the first Section of said Act as authorises the Commissioners therein named to receive subscriptions to an amount not exceeding two millions of Dollars, be and the same is hereby repealed.

III. And be it further enacted, That the Commissioners aforesaid, or any five of them, may at such times and places, and under the direction of such persons as they shall direct, cause books to be opened for the purpose of receiving subscriptions to an amount not exceeding one million of dollars, to constitute a joint Capital Stock for the purpose of effecting a communication by Rail Road, from some point at Beaufort Harbour to the Wilmington and Raleigh Rail Road; Provided, that the State shall not be bound to take any part in the Capital Stock of the Rail Road contemplated by this Act.

[Ratified, the 11th day of January, 1841.]

CHAPTER LIV.

An Act to authorise the Weldon Toll Bridge Company to subscribe their Stock to the Portsmouth and Roanoke Rail Road Company, 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 it shall be lawful for the Stockholders in the Weldon Toll Bridge Company, created by an Act passed by the General Assembly of this State in the year one thousand eight hundred and thirty-one, to subscribe their Stock in the Portsmouth and Roanoke Rail Road Company, upon such terms as may be stipulated between the Stockholders of the said Companies respectively; and upon the subscription of the Stock, held by the Stockholders in the Weldon Toll Bridge Company to the Stock of the Portsmouth and Roanoke Rail Road Company, the Weldon Toll Bridge shall vest in, and be owned and possessed by the said Portsmouth and Roanoke Rail Road Company, in the same manner, that all other property, real and personal, which has been acquired by said Portsmouth and Roanoke Rail Road Company, is owned, held and possessed; and shall henceforth cease to be a Toll Bridge, and shall be deemed, to all intents and purposes whatever, a part of the Portsmouth and Roanoke Rail Road; Provided, that no person shall be prevented from crossing over said Bridge free of charge, who shall not thereby obstruct the passage of the Engines, Coaches and Cars, of the said Company.

II. Be it further enacted, That so soon as the subscription hereby authorised shall have been made, all the rights and privileges acquired under the Charter, or any amendment thereto, granted to the said Weldon Toll Bridge Company, shall cease, and the Corporate existence of the said Company shall be determined; excepting only that the powers conferred upon the said Toll Bridge Company (by the second section of the Act to incorporate the same) of proceeding against delinquent Share-holders for the collection and recovery of sums due for instalments, declared by the authority of the said Act, shall be transferred to and vested in the said Rail Road Company; and the said second section shall continue and be in force, for enabling the said Rail Road Company to institute proceedings for that purpose, which may be either in the name of the said Rail Road Company, or of the Treasurer of the said Bridge Company, to

the use of the said Rail Road Company, at the election of the President thereof.

III. Be it further enacted, That when the arrangement contemplated by the first section of this Act shall have been consummated between the Stockholders of the Weldon Toll Bridge Company, on the one part, and the Portsmouth and Roanoke Rail Road Company on the other part, it shall and may be lawful for the said Portsmouth and Roanoke Rail Road Company, to sell and dispose of to the Petersburg Rail Road Company, one-half of the said Weldon Toll Bridge, and also one-half of the Rail Road situated between Roderick B. Gary's and the Town of Weldon, upon such terms and conditions as may be considered just and equitable, so as to accommodate both of the said Rail Road Companies. Upon such sale being made, the said Petersburg Rail Road Company shall be vested with all the rights and privileges in and to the said Bridge and Rail Road between R. B. Gary's and Weldon, as shall be enjoyed by the said Portsmouth and Roanoke Rail Road Company; and the expenses of keeping and maintaining the said Road and Bridge in good and sufficient repair, shall be borne equally by the said Rail Road Companies.

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

[Ratified, the 11th day of January, 1841.]

CHAPTER LV.

An Act to repeal an Act, entitled "An Act to repeal, in part, the thirteenth section of an Act passed in one thousand eight hundred and twenty-four, authorising the making a Turnpike Road in the County of Buncombe."

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That an Act passed in the year of our Lord, one thousand eight hundred and thirty-five, entitled "An Act to repeal in part the thirteenth section of an Act passed in one thousand eight hundred and twenty-four, authorising the making a Turnpike Road in the County of Buncombe," be, and the same is hereby repealed; Provided, that the citizens of Yancy, residing in that part of said County which constituted a part of Buncombe County, prior to the year one thousand eight hundred and thirty, shall not be compelled to pay any tolls for travelling on said Road.

[Ratified, the 12th day of January, 1841.]

CHAPTER LVI.

An Act repealing the Act relating to the Public Road in Buncombe County.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That the Act relating to the Public Road in Buncombe County, passed at the Session of one thousand eight hundred and thirty-eight, and the same is hereby repealed.

II. And be it further enacted, That this Act shall be in force from and after its passage.

[Ratified, the 11th day of January, 1841.]

CHAPTER LVII.

An Act to give the Court of Pleas and Quarter Sessions of Cherokee County, jurisdiction over the State Road in said County.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That the Court of Pleas and Quarter Sessions of Cherokee County, shall have power and authority to alter and amend the State Road in said County, in as full and ample manner as the Commissioners appointed by the sixty-first Chapter of the Acts of the Session of one thousand eight hundred and thirty-eight, and one thousand eight hundred and thirty-nine, have had and possessed.

II. And be it further enacted, That the Act appointing said Commissioners be, and the same is hereby repealed, and that this Act shall be in force from and after its Ratification.

[Ratified, the 11th day of January, 1841.]

SLAVES.

CHAPTER LVIII.

An Act to prevent the transportation of Slaves upon Rail Roads, Steam Boats or Stage Coaches, without written permission from their owners.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That it shall not be lawful for any Slave or Slaves to be transported on any Rail Road, Steam Boat, or other Vessel navigating the waters of this State, or any Stage Coach, without a permission in writing from the owner or owners of such Slave or Slaves, under the penalty of five hundred dollars for every violation of this Act; to be recovered in the name of the State, from the President, Directors and Company of said Rail Road, or the owners or Captains of said Steam Boat or Vessel, or the owners of said Stage Coach, as the case may be, by action of debt in any of the Courts of Law in this State, one half whereof shall be for the use of the former, and the other half for the use of the State.

II. Be it further enacted, That if any Slave or Slaves shall escape from his or their owner or owners, by being transported on said Rail Road, Steam Boat or other Vessel, or by means of Stage Coach, the master or mistress or other owner or owners thereof, shall and may recover the value of such Slave or Slaves from the President, Directors and Company of said Rail Road, or the owners and Captains of said Steam Boat or other Vessel, or the owner of said Stage Coach, as the case may be, by an action on the case, in any of the Courts of Law in this State.

III. And be it further enacted, That the provisions of this Act shall not be construed to extend to any Slave travelling in company with his or her master or mistress, his, her, or their agent, or as the servant or attendant of any white person or persons, bona fide employed for that purpose.

[Ratified, the 12th day of January, 1841.]

SWAMP LANDS.

CHAPTER LIX.

An Act supplemental to an Act, entitled "An Act concerning the draining of Low Lands."

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 a Jury shall be appointed for the purposes mentioned in the first Section of the Act, to which this Act is supplementary, it shall and may be lawful for the Court, to which the petition shall be preferred, as directed by the first Section of said Act, to order and direct the Jury to lay off the ditch to the Stream or Water Course, mentioned in the petition, although such Stream or Water Course, or the part thereof into which the Pocosin or Flat Lands are petitioned to be drained, shall lie in another County.

II. And be it further enacted, That this act shall take effect and be in force from and after its ratification.

[Ratified, the 11th day of January, 1841.]

CHAPTER LX.

An Act to amend the Revised Statute, entitled "An Act to drain the Swamp Lands of this State, and to create a fund for Common Schools."

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 of North Carolina, in addition to the power and authority vested in them by the Statute aforesaid, shall have power and authority to employ Counsel learned in the Law to aid and assist them in the investigation of the State's title to such of the Swamp Lands as in their opinion have not been duly entered and granted to individuals, and to which any person or Company may set up title adverse to that of the State. And the said President and Directors are hereby fully authorised and empowered, to compromise upon such terms as to them shall seem reasonable and just, with any person or Company setting up an adverse title as aforesaid, for such title, so as to secure to the State an indefeasible right in said lands.

II. Whenever in the process of draining, it may be necessary in order to prevent a sacrifice of the interests of the State in any of said Swamp Lands owned by the State, to purchase small Tracts owned by individuals, the said President and Directors are, and shall be authorised to buy the same, or to exchange for some other portions of said Swamp Lands, and the lands acquired by them under this Act, shall be held by them as other Swamp Lands.

III. This Act shall take effect from its ratification.

[Ratified, the 11th day of January, 1841.]

VAGRANTS.

CHAPTER LXI.

An Act relating to Vagrants.

Be it enacted by the General Assembly of the State of North Carolina and it is hereby enacted by the authority of the same, That if any person or persons who have no apparent means of subsistence, or neglect applying themselves to some honest calling for the support of themselves and families, shall be found sauntering about, and endeavoring to maintain themselves by gaming or other undue means, it shall and may be lawful for any Justice of the Peace in the County wherein such person may be found, on due proof made, to issue his warrant for such offending person, and cause him to be brought before said Justice, who is hereby empowered, on conviction, to demand security for his or their good behaviour, and in case of refusal or neglect, to commit him or them to the Jail of the County, until the next Court of the County, which may proceed to try the said offender; and if found guilty by verdict of a Jury of good and lawful men, the said offender shall be imprisoned for the space of twenty days; and the costs arising thereon shall become a County charge, if the defendant be unable to pay them, and such punishment may be inflicted as often as the person may be guilty, allowing fifty days between the punishment and the offence; Provided, that when a Justice shall commit any person for trial under this Act, such person may give bail, as in other cases of trespass or nuisance.

II. And be it further enacted, That all laws and clauses of laws, coming within the meaning and purview of this Act, is hereby repealed.

[Ratified, the 11th day of January, 1841.]

WILLS AND TESTAMENTS.

CHAPTER LXII.

An Act to amend the Revised Statute, entitled "An Act concerning last Wills and Testaments."

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That no Will in writing, made after the fourth day of July, one thousand eight hundred and forty-one, whereby personal estate is bequeathed, shall be sufficient to convey or give the same, unless such Will be executed with the same formalities, as are required in the execution of Wills of real estate, according to the provisions of the first section of said Statute. Nor shall said Will in writing, whereby personal estate is bequeathed, nor any part thereof, be revocable, but in the same manner as Wills of real estate are revocable, by the twelfth section of the said Statute; Provided nevertheless, that the provisions of this Act shall not be construed to affect nuncupative Wills, but that the same may be made where now they are allowed.

[Ratified, the 12th day of January, 1841.]

MR. RAYNER'S SPEECH—CONTINUED.

But, says the gentleman from South Carolina, (Mr. Rhet), the Florida war will probably soon be terminated. Probably soon be terminated! This is the language we have heard for years. It has long been the theme of Executive reports, and of the despatches of Commanders-in-chief. Let a few miserable squaws be taken, or starving old men surrender themselves, and it is immediately heralded throughout the land, that the power of the Indians has been destroyed; that they are all coming in; and that the war will soon be at an end. And the next account we hear is, that blood has been flowing in torrents, and houses have been wrapped in flames. For every brave destroyed, two seem to spring up in his place. We have, within the last day or two, heard of the capture of 60 or 70 Indians; but how often has this been the case heretofore? It is impossible to estimate the number of Indians in Florida. Years ago, it was said there were only a few hundred; and although we have been destroying them all the while, yet the work of murder and ravage has continued. As soon as the army relaxes its operations, they become emboldened, leave their inaccessible haunts, and commence anew their course of pillage and death. You may suppose there is not an Indian in Florida, you may suddenly withdraw your army, and the first thing you hear, may be, that the Indians have re-appeared in all their power. Sir, the Florida war is not at an end, nor is it soon likely to be. Sam Jones and Tiger-tail yet lead their merciless bands through the everglades of that ill-fated region; to-day, doing "the deed of death," and to-morrow concealed in the impenetrable swamps. The bloody Mickasukies yet rove through the forests of Florida, leaving death and desolation in their track. To legislate with a view to the early disbandment of the army in Florida, is to leave your own countrymen exposed to the horrors of a savage warfare. To do this through a false economy, is to sell the blood of your citizens for money. It is to surrender a portion of your territory to the savage, and to confess, in the face of the world, that a predatory band of Seminoles has successfully resisted all the boasted power of the Government. To stop the war at this stage, is to compromise the honor of the country. You must, you are compelled, to prosecute it to a successful issue. I therefore take it for granted that, in estimating the appropriations for the military service, you must include the \$2,385,329 proposed in the letter from the Secretary of War.

It seems that the Secretary of the Treasury, in estimating the reductions for the present year, cuts down the expenses of the Indian department \$174,000 below the appropriations of last year. I know not whether this is on account of there being funds in the hands of agents yet unpaid, on account of outstanding appropriations, or whether it is in pursuance of that system of gradual retrenchment recommended in his report; for it will be seen by reading the report of the Secretary, that he undertakes to read Congress a lecture on economy, after having exhausted the Treasury by his extravagance and mismanagement. And, in pointing out the causes of, and grounds for, future retrenchment, he says that "fewer Indians remain to be removed." Certainly there are fewer to be removed. But are there fewer, that ought to be removed this year than were removed the last? Judging from the rapid settlement of the Western States, and the consequent pressure around the Indians remaining, I should suppose there were more. I appeal to gentlemen from the Western States—from Indiana, Illinois, Michigan, Missouri—and I ask them, if they are not anxious to have the Indian title to the lands in their States extinguished, and to have those Indians removed to the West? Are they not every day becoming more inconvenient to the whites, and the whites to them? And yet the Secretary seems to think this system of Indian relations will soon be at an end, and the expense attending it will be lessened every year. This is a most absurd idea. The Indian relations of this country will constitute a permanent, standing charge upon this Government for one hundred years to come. And as the population of the country increases, and its frontier is extended, the more complicated and expensive will our Indian relations become. This must be the case, till the vast region from the Mississippi to the Pacific is settled by the white man, and not an Indian is left remaining.

The Secretary of the Treasury further says, in pursuance of his pretended anxiety for retrenchment, that the pensions are diminished by deaths. Not so very much, sir. Some of the old revolutionary pensioners die off, to be sure, and I am sorry for it. I wish they could live forever. They serve as a connecting link between the past and the present. They would serve to remind us of our departure from the pure and virtuous principles of the Revolution. And these old men hold on to life well. The same physical vigor which enabled them to perform such deeds of daring in the Revolution, yet preserves to them health and strength. The gentleman from Maine, (Mr. Evans,) demonstrated that, if they had died off last year at the rate of ten per cent. it would not reduce the pension appropriation more than \$200,000; whereas, the truth is they did not die in near so large a proportion. But, sir, it must be recollected that, whilst the pension list is annually lessened by death, it is still annually increasing from additions to the list. Look at the annual reports of the Commissioner of Pensions, and you will see that this is the case. Look at the quantity of bills on your table for placing additional names on the pension roll—many and most of which will probably pass, as soon as time can be obtained to pass upon them. Owing to these facts, I have no doubt but that, for the next five years, the additions, with the arrearage-pay in such cases, will be equal to the diminution from deaths.

Assuming, then, that the military service will cost us much this year as it did last, which was \$9,343,900 83, and adding the \$2,385,329 stated to be necessary, by the Secretary of War for the Florida service,