

State, weir, hedge, net or seine, for the purpose of catching or taking fish for sale or exportation, unless each and every such person shall have resided and continued to reside in this State at least twelve months next preceding the day on which he, she or they shall commence to use, or cause to be used, as aforesaid, any weir, hedge, net or seine, for the purpose aforesaid; nor shall any person or persons assist in using or be interested in using or causing to be used, in any of the navigable waters of this State, for the purpose aforesaid, any weir, net, hedge or seine, in the using or causing to be used of which any person may have an interest who shall have resided and continued to reside in this State at least twelve months next preceding the day on which the same shall be used: provided, that nothing in this act contained shall be so construed as to prevent any person from fishing with seines, hauled to the shore at any fishery situated on the shore of any of the navigable waters of this State, the title to which fishery, or any interest therein, such person may have acquired by purchase or inheritance: and provided further, that this act shall not extend to those who may be hired to fish by any person or persons not prohibited by this act from fishing in any of the navigable waters of the State.

Sec. II. *And be it further enacted*, That each and every person who shall violate any of the provisions contained in the first section of this act, shall, for each and every such offense, forfeit and pay the sum of one hundred dollars, to be recovered by warrant before a Justice of the Peace of the county where the offense was committed, or by action of debt in any Court of record in said county; one half of said sum to be applied to the use of the person suing for the same, and the other half to the use of the wardens of the poor in said county; and shall, moreover, for each and every such offense be guilty of a misdemeanor, and, upon conviction thereof in any Court of record having cognizance of the same, shall be fined or imprisoned at the discretion of the Court.

Sec. III. *And be it further enacted*, That no person or persons shall, for the purpose of taking or catching fish, at any time hereafter between the first day of February and the first day of May of the same year, use or cause to be used at or within half a mile of the marshes separating the waters of Croatan and Pamlico sounds, any weir, hedge, net, or seine.

Sec. IV. *And be it further enacted*, No person or persons shall hereafter throw, or cause to be thrown into the channel of any of the navigable waters of this State, any fish offal in any quantity that shall be deemed likely to hinder or prevent the passage of fish along such channel, where such offal may have been thrown.

Sec. V. *And be it further enacted*, That each and every person who shall violate any of the provisions contained in the third or fourth sections of this act shall be deemed guilty of a misdemeanor, and, upon conviction thereof in any Court of record having cognizance of the same, shall be fined or imprisoned at the discretion of the Court.

Sec. VI. *And be it further enacted*, That each and every net (unless the same be a dragnet and hauled to the shore) which shall be used for the purpose of catching shad in that portion of the waters of Pamlico sound, lying between a line drawn eastwardly from Stumpy Point and the southern side of Long shoal in said sound, shall be set and fixed in said waters in a direction from north to south, and shall not be used in said waters in any other manner whatever; and each and every person offending against the provisions hereof, shall, for each and every such offense, forfeit and pay the sum of five dollars, to be recovered, by warrant, before a Justice of the Peace, or by action of debt in a Court of record having cognizance thereof, by any person who will sue for the same; and furthermore, each and every person so offending shall, for each and every such offense, be liable to indictment for a nuisance.

Sec. VII. *And be it further enacted*, That it shall be the duty of each and every person, who shall set, place or use in any of the navigable waters of Pamlico and Croatan sounds, any fishing stake or pole, to remove the same within three months after such person shall have discontinued the use of the same; and each and every person offending against the provisions and meaning hereof, shall for each and every stake not removed as herein required, forfeit and pay the sum of two dollars, to be recovered by any person who will sue for the same, by warrant before a Justice of the Peace, or by action of debt in a Court of record having cognizance thereof; and furthermore, each and every person so offending shall, for each and every such offense, be liable to indictment for a nuisance.

Sec. VIII. *And be it further enacted*, That this act shall be in force from and after its ratification.

[Ratified this seventh day of January, 1845.]

#### CHAPTER XLI.

An Act to amend the seventh section of the Revised Statutes, entitled Guardian and Ward.

Whereas it sometimes happens where the Courts of Pleas and Quarter Sessions are required, by the said seventh section of the above recited Statute, to remove a guardian and to appoint another, that no suitable person is willing to accept such guardianship, and by reason of the waste and misapplication of the ward's effects, and the subsequent insolvency as well of the guardian, as of his securities, before the ward's arrival of full age, great loss and injury is sustained; 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 where any guardian shall be removed, under the said section, and another person shall not be appointed to accept the said office, or where any guardian shall, by reason of not complying with the requirements of the said section, become liable to be removed, although such order of removal may not be made, it shall be the duty of the Clerk of the Court to certify to the Attorney General, or to the Solicitor of the circuit, the name of the first guardian and his securities and the proceedings had against him under the directions of the said section, and it shall be the duty of the Attorney General or Solicitor forthwith to institute a suit in the Court of Equity, in the same County, by bill, petition or other proper proceedings, as well against the securities as the guardian, for an account of the guardianship, and for securing the estate of the ward; and upon such bill or proceedings, all proper accounts may be taken, all necessary orders made, and a decree had, according to the course of the Court, as well against the securities as the guardian.

Sec. II. *And be it further enacted*, That the said Court of Equity shall have power, upon such bill or other proceedings, to appoint the Clerk and Master, or other discreet person, a receiver, to take possession of the ward's estate, to collect and receive all monies due to him, and to pay the same into Court, or to secure, loan, invest or apply the same, and to superintend and direct his estate, for the benefit and advantage of the ward; and out of the same, to defray the charges of his support, nurture, and education,

under the direction, and subject to such rules, order, and directions, in any respect, as the Court may, from time to time, make in regard thereto; and the Court shall cause the accounts of such receiver to be returned, audited and settled, from time to time as the Court may direct, making such allowances to such receiver, for his time and trouble and responsibility, as the Court shall deem proper and reasonable.

Sec. III. *And be it further enacted*, That it shall be the duty of the Attorney General or Solicitor to prosecute the said suit, and to move for, and attend to, the execution of all necessary orders, for securing the full benefit and effect thereof to the said ward; for which services, the Court may make to him reasonable compensation, according to the circumstances of the case.

Sec. IV. *And be it further enacted*, That whenever such guardian shall be duly appointed, he may apply by petition to the said Court of Equity, for an order upon the receiver to pay over to, and possess him of, all the money, estate and effects of his ward; and in case no such guardian shall be appointed, then the ward, on his coming of age, or, in case of his death, his executor or administrator, may have the like remedy by petition.

[Ratified the 5th day of January, 1845.]

#### CHAPTER XLII.

An Act extending the jurisdiction of Justices of the Peace over judgments, and amendatory of the sixth section of the Revised Statutes, entitled "Justices of the Peace," and the fortieth section of the Revised Statutes, entitled "Courts, County and Superior."

I. *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 Justices of the Peace shall have jurisdiction over all sums due by judgment rendered by a single magistrate, when the principal money does not exceed one hundred dollars, although the principal and interest together with the costs may exceed that sum.

Sec. II. *Be it further enacted*, That if any suit shall be brought in the County or Superior Courts, or any judgment rendered as aforesaid, for any sum of less value than one hundred dollars due by such judgment, the same shall be dismissed by the Court.

Sec. III. *Be it further enacted*, That all laws and clauses of laws inconsistent with the purview of this act, shall be, and the same is hereby repealed: *Provided*, however, that the provisions of this act shall not affect any suit now commenced or which may be commenced within thirty days after the adjournment of the Legislature.

[Ratified the 2d day of January, 1845.]

#### CHAPTER XLIII.

An Act to prevent fraudulent voting.

*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 shall hereafter knowingly and fraudulently vote at any election, who by law shall not be entitled to vote at such election, he shall be liable to indictment in the County or Superior Courts of law; and on conviction, shall be fined or imprisoned, or both, at the discretion of the Court; the amount of the fine to be not less than ten, nor more than one hundred dollars; and the term of imprisonment to be not less than five, nor more than thirty days.

[Ratified the 9th day of January, 1845.]

#### CHAPTER XLIV.

An Act to amend the 8th section of the 50th chapter of the Revised Statutes, entitled "an act concerning frauds and fraudulent conveyances."

*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 contracts for leasing or leases of lands, for the purpose of digging for gold or other minerals, or for the purpose of mining generally, shall be void and of no effect, unless such contract or lease, or some memorandum or note thereof, shall be put in writing and signed by the party to be charged therewith, or by some other person by him thereto lawfully authorized.

Sec. II. That all laws or clauses of laws, coming within the meaning and purview of the above act, be, and the same are hereby repealed.

[Ratified this 7th day of January, 1845.]

#### CHAPTER XLV.

An Act to incorporate the North Carolina Mining, Manufacturing and Land Association.

I. *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 there shall be established in the State a mining, manufacturing and land company, by the name and style of "the North Carolina Mining, Manufacturing and Land Association," the capital whereof shall not exceed one hundred thousand dollars, (\$100,000) divided into shares of one hundred dollars each.

Sec. II. *Be it further enacted*, That when the sum of fifty thousand dollars (\$50,000) shall have been subscribed, the subscribers, their successors or assigns, are hereby declared to be incorporated, by the name and style of "The North Carolina Mining, Manufacturing and Land Association," and shall continue to exist as such for fifty years; and as such may sue and be sued, plead and be impleaded; and have power to make all bye-laws and regulations, not inconsistent with the laws of the State, which may be necessary for the well ordering and conducting of the affairs of said company; they may have and use a common seal, and the same may be broken, altered and renewed at pleasure; and possess and enjoy all the privileges and rights of a corporation or body politic: *Provided*, that said corporation shall be confined to mining and such manufactures as are connected with the metallic arts, and to the holding or sale of lands, and shall not exercise any banking privileges.

Sec. III. *Be it further enacted*, That John McIntyre, J. G. Bynum, and W. H. Miller, of Rutherfordton, and Frederick Bronson and J. B. Murray, of New York, and such persons they may associate with them, are hereby appointed Commissioners, and are authorized, at such times and places as they may deem expedient, after sixty days' public advertisement in some newspaper printed in the State,

to open books for receiving subscriptions for shares of stock in said company.

Sec. IV. *Be it further enacted*, That said commissioners are hereby authorized to receive, in payment of stocks, real estate directly connected with the objects of said Company; and said Commissioners are authorized to adopt some uniform and equitable rule determining the conditions upon which real estate is to be received in subscription for shares of Stock in the Company; and it is hereby further declared that the Stock of said Corporation shall be held and deemed personal property: *Provided always*, that the real estate which shall be received in payment of Stock as aforesaid shall be subject to the same taxation as other lands in this State.

Sec. V. *Be it further enacted*, That all legal process against the corporation shall be served upon the President, unless he be absent from the State, in which case it may be served upon a Director; and if no Director can be found, then upon any Stockholder in said corporation.

Sec. VI. *Be it further enacted*, That it shall be the duty of said corporation to keep a full and fair record of all its proceedings, in a Book or Books procured for that purpose, and shall produce the same in any of the courts of record of this State, whenever required so to do by any of said courts.

Sec. VII. *Be it further enacted*, That the President and Directors of the said corporation shall, on the first day of January in each and every year, report to the Clerk of the County Court of Rutherford County, the amount of Stock subscribed for and paid in by each and every Stockholder, and the names of all the Stockholders on that day, with the amounts severally owned by them; which report shall be kept in the office of said Clerk for public inspection; and in case the president and directors of said company shall fail to make the report required of them, they shall be liable to a penalty of one thousand dollars, to be recovered, in an action of debt, in the Superior Court of Law in the County of Rutherford, one half to the use of the person suing for the same, and the other half to the use of the State.

Sec. VIII. *Be it further enacted*, That to secure the creditors of said Corporation, in addition to the property of said company, each Stockholder shall be liable to the creditors thereof in such sum as is equal to the Stock subscribed or owned by him; and each creditor may have an action of debt against all or any of the Stockholders, who were Stockholders on the first day of January preceding the commencement or at the time of bringing his action.

Sec. IX. *Be it further enacted*, That this act shall be in force from and after the ratification thereof.

[Ratified the 9th day of January, 1845.]

#### CHAPTER XLVI.

An Act to encourage the culture and manufacture of silk and sugar among the Cherokee Indians in this State.

Whereas a small portion of the Cherokee tribe of Indians are remaining in this State, who are represented by their white neighbors as conducting themselves in a peaceable and orderly manner, and who, under the influence of temperance and religious societies, are fast improving in the knowledge of the mechanic arts, agriculture and civilization; and whereas the Cherokees referred to, who belong to the towns of Qualla and Yuansan, Cheoeh, have already commenced the culture and manufacture of silk; and for the encouragement thereof,

*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 provisions of the act, entitled an act to encourage the culture and manufacture of silk and sugar in this State, passed in the year 1836, be, and the same are hereby extended to the said Cherokee Indians now belonging to said towns: *Provided*, that the provisions of this act shall not extend to any Indians who are not remaining in said towns by the permission of the Government of the United States, under treaty stipulations.

[Ratified the 10th day of January, 1845.]

#### CHAPTER XLVII.

An Act to amend the Revised Statutes, entitled Religious Societies.

Whereas although the third section of the above recited statute empowered the several religious congregations in this State to elect trustees to hold property for each single congregation; yet no power is conferred by the said statute upon any religious denomination in the aggregate to appoint trustees for the general purposes of such religious denominations: Therefore,

*Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same*, That the Conference, Synod, Convention, or other ecclesiastical body, representing any church or religious denomination within the State, may from time to time and at any time appoint, in such manner as such body may deem proper, a suitable number of persons as trustees for such church or denomination, who shall have powers to receive donations, and to purchase, take, and hold property, real and personal, in trust for such church or denomination, within this State, and, as such trustees, may sue and be sued in all proper actions for or on account of such donations and property, or any matter relating thereto: And the body appointing, may remove such trustees, or any of them, and may fill vacancies occasioned by death or otherwise.

[Ratified this 5th day of January, 1845.]

#### CHAPTER XLVIII.

An Act to loan to the North Carolina Military Academy at Raleigh, for the use of the Cadets thereof, the necessary military arms and equipments.

I. *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 his Excellency the Governor of the State, be, and he is hereby authorized and requested to procure, without delay, if he can do so, and loan to the Preceptors of the above named Academy, a sufficient number of Cadets' muskets and the other suitable military equipments necessary for the use of the Cadets thereof, provided he can procure the said muskets and other equipments in exchange for a part of the State's next quota of public arms from the United States; he taking a bond and security from the said Preceptors, of sufficient sum to cover the value of the said arms and equipments so lent to them, conditioned that the said arms and equipments shall be taken care of and kept

in good order, and be delivered again to the Governor, at the Arsenal in Raleigh, in good condition, whenever the said school goes down and ceases to exist, or when the same shall be called for by the order of the General Assembly; which bond shall be put in suit by the Governor, whenever a breach of its conditions or either of them shall happen.

II. *Be it further enacted* That this act shall be in force from and after the ratification thereof.

[Ratified this 6th day of January, 1845.]

#### CHAPTER XLIX.

An Act concerning Inspectors of Flour.

I. *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 addition to the inspectors now authorized by law, there shall be an inspector of flour for the town of Wilmington, in this State, who shall be appointed by the County Court of the County of New-Hanover, at the first Court that shall happen after the first Monday of March, one thousand eight hundred and forty five, and shall hold his office for the term of five years from and after the time of his appointment.

Sec. II. *Be it further enacted*, That the inspector hereby authorized to be appointed, shall enter into the usual bond, payable to the State of North Carolina, and conditioned for the faithful discharge of the duties of his office, (which bond the County Court of the county of New-Hanover are hereby authorized and required to take;) and the said inspector shall be entitled to receive the same fees, and shall be subject to the same rules, regulations and restrictions that are now in force in regard to the duties and liabilities of the inspector of flour for the town of Fayetteville.

Sec. III. *Be it further enacted*, That it shall and may be lawful for any person to ship flour from the town of Fayetteville to the town of Wilmington, without having the same inspected in the town of Fayetteville.

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

Sec. V. *Be it further enacted*, That this act shall be in force from and after its ratification.

[Ratified the 8th day of January, 1845.]

#### CHAPTER I.

An Act to extend the time for registering grants, mesne conveyances, powers of attorney, bills of sales and deeds of gifts.

*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 of land in this State, all deeds of mesne conveyances, powers of attorney under which any lands, tenements or hereditaments have been or may be conveyed; all other powers of attorney, which are required to be proved and registered by any act of the General Assembly; all bills of sale, deeds of gifts already proved, or which may hereafter be proved, shall and may, within two years after the passage of this act, be admitted to registration, under the same rules, regulations and restrictions, as heretofore appointed by law; and said grants, deeds of mesne conveyances, powers of attorney, bills of sale, and deeds of gift, shall be as good and valid as if they had been proved and registered within the time heretofore allowed: *Provided*, that nothing herein contained shall be construed to extend to mortgages, conveyances in trust, or to swamp lands in the Eastern part of the state.

[Ratified this 24th day of December, 1844.]

#### CHAPTER LI.

An Act to amend the Revised Statutes, entitled an act concerning Legacies, Filial Portions and Distributive Shares and the Revised Statutes, entitled Descents.

I. *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 person shall die intestate, who had in his or her lifetime advanced to any of his or her children personal property, of what nature or kind soever, of value more than equal to a distributive share of the personal estate of said intestate, said child or children, or those legally representing them, shall, in the division of the real estate of said intestate, if there be any, be charged with the excess in value which he or she has received, as aforesaid, over and above an equal distributive share of said personal estate; and the said excess shall be a charge upon the share or shares of the real estate of such child or children as have been excessively advanced as aforesaid.

Sec. II. *Be it further enacted*, That when any person shall die intestate, seized and possessed of any real estate, who had in his or her lifetime settled any real estate on any child or children of said intestate, of more value than equal to the share which shall descend to the other children of the intestate, such child or children, or their legal representatives, shall, in the distribution of the personal estate of said intestate, if there be any, be charged with the excess in value of said real estate settled as aforesaid over and above the share which shall descend to the other children; and the said excess in value shall be a charge upon the shares of personal estate of the child or children having real estate settled on him or her as aforesaid.

[Ratified the 7th January, 1845.]

An Act to regulate the 70th and 71st Regiments of North Carolina Militia.

I. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same*, That all that portion of the Militia living in Lincoln county, and formerly attached to the seventieth Regiment be, and the same is hereby declared to be attached to and belong to the seventy first Regiment.

Sec. II. *Be it further enacted*, That all that portion of militia living in Catawba county, and formerly attached to the seventy first Regiment, be, and the same is hereby declared to be attached to and belong to the seventieth Regiment.

Sec. III. *Be it further enacted*, That this act be in force from and after its ratification.

[Ratified this 8th day of January, 1845.]