

# THE RALEIGH STAR AND NORTH CAROLINA GAZETTE.

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## LAWS OF NORTH CAROLINA [Passed at the session of Assembly 1844-45.]

### CHAPTER LII.

An Act to confirm a sale by James W. Guinn, Agent for the State.

Whereas, at the sale of Cherokee lands, in 1820, one William Welch became the purchaser of a tract of land in Macon County, known as the Stekoth Old Field, in district 8, sec. No. 18, containing 300 acres; and the said purchaser having become insolvent, the said land was surrendered by him, and subsequently sold by James W. Guinn, agent for the State, to Scroop Enloe, Abraham Enloe, Wesley Enloe, E. A. Enloe and John Mings, under the directions of the Public Treasurer, for the balance due the State by the first purchaser, with interest thereupon: 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 sale made by James W. Guinn, be, and the same is hereby in all things confirmed; that the Treasurer and Attorney General of the State be, and they are hereby authorized to examine the payments which have been made to the State or her agents for the said tract of land, and in case they should find that any of the payments have not been credited, to give credit therefor.

And further, that the said Treasurer and Attorney General be authorized to examine if the said tract of land is materially interfered with by reservations granted by the United States to the Cherokee Indians, under the Treaties of 1817 and 1819; and in case they should decide that it was materially interfered with, and that the land or a large portion of it did not belong to the State at the time it was sold, that they, under the rules prescribed by the acts of 1828 and 1829, passed for the relief of purchasers of Cherokee reservations, shall be authorized to remit all the interest which has accrued on said bonds since the passage of the last recited act; and on the payment of the sum adjudged to be due by the said Attorney General and Treasurer, the Secretary of State is hereby authorized to issue a grant to the said purchasers or their assignees or assignees.

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

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

### CHAPTER LIII.

An Act to extend the provisions of an act, passed at the session of the General Assembly of 1830-31, entitled "An Act for the relief of such persons as may suffer from the destruction of the records of Hertford county, occasioned by the burning of the court house and clerks' offices of said county;" and also to extend the provisions of an act, passed at the session of 1831-32, entitled "an act in addition to an act passed at the last session of the General Assembly of this State in relation to the burning of the records of the county of Hertford," to the counties of Montgomery and Stanly.

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 above recited acts be and they are hereby extended to the counties of Montgomery and Stanly, to all intents and purposes, as fully as if the said act had been specially made in relation to the burning of the court house and clerks' offices of Montgomery.

[Ratified this 1st day of January, 1845.]

### CHAPTER LV.

An Act declaratory of the meaning of the act entitled "An Act to aid the Internal Improvements of this State," Revised Statutes, chapter 61, sec. 6th.

Whereas, in the above recited act, it is provided that the Board of Internal Improvements, by virtue of subscription and payment on behalf of the State, shall appoint two-fifths of the whole number of Directors of each of the corporations aforesaid, and in all general meetings of the stockholders, in any of said companies, the Commissioners of Internal Improvements, or any other representative of the State whom the said Board may appoint, shall be entitled to two-fifths of the whole number of votes, which may be given at such meeting; and whereas doubts have arisen as to the true intent and meaning of the said provision in the said act:— 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 intent and meaning of the said provision of the said act, for the Board of Internal Improvement to appoint two-fifths of the whole number of directors in each of the said corporations, but neither by themselves, nor by any representative appointed by them, to vote for the remaining three-fifths of the directors of the said corporations.

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

### CHAPTER LVI.

An Act to amend an act to incorporate the President, Directors and Company of the Yadkin Toll Bridge.

Sec. 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 Mary Locke and William Locke, of the county of Rowan and State of North Carolina, their heirs and assigns, be, and the same are hereby authorized to keep up the toll bridge over the Yadkin river, on the road leading from Salisbury, Rowan County, to Lexington, Davidson county, and to ask, demand and receive the following toll for crossing the same, to wit: for every four wheeled carriage with four horses, one dollar; for every four wheeled carriage with two horses, 75 cents; for every four wheeled carriage or buggy, with one horse, fifty cents; for every two wheeled chair, sulkey or cart, with one horse, ten cents; for every empty wagon with four horses, fifty cents; for every wagon either loaded or empty with three horses, fifty cents; for every loaded wagon or carryall with two horses, fifty cents; for every empty wagon or carryall with two horses, forty cents; for every one horse wagon or carryall either loaded or empty, thirty cents; for every foot passenger, five cents; excepting negroes in droves; and for each and every negro in said droves over seven years of age, four cents; for each head of sheep or hogs, two cents.

Sec. II. Be it further enacted by the authority aforesaid, That all laws and clauses of laws coming within the meaning and purview of this act, be, and the same are hereby repealed; and this act shall be in force from and after its ratification.

[Ratified this 31st day of December, 1844.]

### CHAPTER LVII.

An Act supplemental to an act, passed at the present session of the General Assembly, entitled an act to amend an act to incorporate the President, Directors and Company of the Yadkin Toll Bridge.

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 individuals named in the act passed at the present session of the General Assembly, entitled an act to amend an act incorporating the President, Directors and Company of the Yadkin Toll Bridge, be, and they are hereby authorized to demand and receive from any person crossing their said Bridge with a loaded wagon drawn by four or more horses, seventy five cents for each and every such loaded wagon; and this act shall be in force from and after its ratification.

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

### CHAPTER LVIII.

An Act to amend the 123rd Chapter of the act of the Revised Statutes, entitled "an act concerning wrecks and wrecked property."

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 123rd Chapter of the act of the Revised Statutes, entitled an act concerning "wrecks and wrecked property," be, and the same is hereby so amended: 1st. That the Counties of Carteret and New Hanover shall hereafter be, and the same are hereby divided into the following wreck districts, to wit: The county of Carteret into five districts, the first from the Hyde County line to Ocracoke Inlet; the second from Ocracoke Inlet to a due South East line drawn from Harbor Island to the sea; the third from said line to a due South East line drawn from Shell Point, on Harker's Island, to the sea; the fourth from the last mentioned line to old Topsail Inlet; the fifth from old Topsail Inlet to the Onslow County line; and the County of New Hanover into two Districts; the first from the Onslow County line to Deep Inlet; the second from Deep Inlet to the Brunswick County line.

Sec. II. That no person exercising the business or calling of a Pilot, and no Pilot shall hereafter be or act as a commissioner of wrecks.

Sec. III. That two indifferent persons directed in the fourth section of the act to which this act is an amendment, to be chosen to adjust the amount of reward to be paid to the salvors, shall, if they cannot agree touching the amount of such reward, choose one other indifferent person, as umpire to decide between them touching the amount of such reward; and from the adjustment or award thus made, either party may dissent, as is now allowed in said act.

Sec. IV. That in future the commissioners of wrecks shall be the only proper persons to take charge of, advertise or sell any vessel, cargo or other wrecked property that may be stranded or cast on shore in their respective districts: Provided, that the captain, owner, merchant, or consignee, or their agent, may, during the absence of the Commissioners, or if he refuse to act, take charge of, or sell or remove such vessel, cargo, or other wrecked property; and every Commissioner shall receive, for selling any wrecked property, five per cent. on the amount of all such sales; and in case of the removal of any wrecked property by the owner, merchant, consignee, or their agent, from the custody of any Commissioner, without a sale, then such Commissioner shall receive two and a half per cent. on the amount of the value of such property, so removed, which amount shall be ascertained in the same manner as the amount of the reward to be paid to the salvors is herein and by said act directed to be ascertained and determined.

Sec. V. That no Commissioner shall in any case be entitled to salvage on property saved; and for the discharge of all the duties which now are or may hereafter be imposed on each and all of them by law, no commissioner shall be entitled to receive any thing more than the commissions allowed him as such in this act; any law, usage, or custom to the contrary notwithstanding; and any person who shall interfere with the rights and privileges of any commissioner, shall be liable to such commissioner, in an action on the case, for such damages as the commissioner shall sustain by reason of such interference: Provided, that the commissioner, when such person may have been employed in the absence of the Commissioner, or in case of his refusal to act, shall tender to the person thus engaged, a reasonable compensation for the trouble and expense the person thus employed may have undergone.

Sec. VI. That hereafter it shall be the duty of the several Commissioners of wrecks, instead of advertising sales of wrecks or stranded property in two or more public places in their respective Counties, to advertise such sales at the Court House door, and at other public places in three Captains' districts in their respective counties; and the Commissioners of the first and second wreck districts, in the County of Currituck, shall, if they prefer, advertise sales of wrecked or stranded property, in some newspaper published in the town of Norfolk, in Virginia, in cases where they are now compelled by law to advertise in a newspaper.

Sec. VII. And be it further enacted, That the County Court of Hyde County, (a majority of the Justices being present) shall and may have power, at the first term of said Court to be held after the first day of January in each and every year, to lay off their County in such wreck districts

as to them may seem right and proper.

Sec. VIII. And be it further enacted, That all laws and clauses of laws contrary and repugnant to the meaning of this act, be, and the same are hereby repealed.

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

### CHAPTER LIX.

An Act to protect the public bridges in Tyrrell, Washington and Onslow Counties.

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 wilfully or negligently injure any of the public bridges belonging to the Counties of Tyrrell, Washington and Onslow Counties, by forcibly running any decked vessel, boat or raft against the same, such person shall forfeit and pay the sum of fifty dollars, for each and every offence, to be recovered before any Justice of the Peace of said Counties, by any person suing for the same; one half to the use of such person, and the other half to the use of the wardens of the poor of said Counties.

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

### CHAPTER LX.

An Act relative to Notaries.

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 fifty cents, and no more, shall be allowed and charged as full compensation for all services of a Notary Public in this State, on a protest for nonacceptance and nonpayments of any order, note, bond or bill, or on any other account whatever: provided, however, that nothing in this act contained shall extend to notarial protests concerning vessels or their cargoes.

Sec. II. 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 LXI.

An Act to amend an act, entitled "an act to punish the default of returning officers in the election of Electors for President and Vice President of the United States," passed 1842-3, chapter 29.

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 offence created by the above recited act shall be cognizable in the Superior Court of Law of the County wherein the defaulting officer resides.

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

### CHAPTER LXII.

An Act in relation to the State Library.

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 the Librarian to keep the Library open for the accommodation of the public, on every day in the year, between the hours of nine and twelve o'clock, and between two and five o'clock, Sundays and the fourth of July excepted.

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

### CHAPTER LXIII.

An Act to amend the 59th chapter of the Revised Statutes and 49th section of said act.

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 inspectors shall make a difference with respect to hard and soft turpentine, and dipping and scrapings, designating the character of each barrel; the soft and virgin dipping shall be branded with the letter S, and the hard with the letter H, provided it is clean from any fraudulent mixture, so as to render it unmerchantable; and each barrel so inspected and branded, shall be held and considered as good clean turpentine; and if any inspector shall give any bill contrary to the directions of this act, he shall forfeit the sum of one hundred dollars, one half to the informant and the other to the party aggrieved.

Sec. II. And be it further enacted, That nothing herein contained shall be understood to apply to the counties of Beaufort, Carteret, Martin, Greene, Pitt, Onslow, Jones, Wayne and Craven.

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

### CHAPTER LXIV.

An Act concerning Sheriffs and Constables.

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 claim shall be placed in the hands of any Sheriff or Constable, for the purpose of collection, and the said Sheriff or Constable shall not use due diligence in collecting the same as soon as the same can be done, such Sheriff or Constable, and the securities of such Sheriff or Constable, shall be liable for the full amount of the claim so neglected to be collected, notwithstanding the person or persons against whom such claim existed may be able to pay the amount of said claim.

Sec. II. Be it further enacted, That all laws and clauses of laws coming in conflict with this act, are hereby repealed.

[Ratified this 8th of January, 1845.]

### CHAPTER LXV.

An Act concerning a Penitentiary.

Whereas it is deemed proper and expedient to have a decisive expression of public opinion concerning the establishment of a Penitentiary in this State; and whereas such expression of public opinion should be based upon a knowledge that the fund for such purpose must be raised by a direct tax; 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 at the next election for members of the General Assembly of this State, the Sheriff or proper officer, in every County in the State, shall prepare a box for the reception of votes on the subject of a Penitentiary, under the same rules and regulations governing other elections; and every person entitled to vote for a member to the House of Commons shall be at liberty to vote for or against a Penitentiary.

Those voting for it shall deposit a ticket with the word "Penitentiary" thereon; and those voting against it, with the words "no Penitentiary" thereon; and the said Sheriff, or proper returning officer, shall make out two statements of the votes taken in his County for and against a Penitentiary; one of which he shall deposit in the office of the Clerk of the County Court, and the other he shall, on or before the first day of October following, deliver to the Secretary of State, sealed up and endorsed thereon, "a statement of the votes taken in the County of \_\_\_\_\_ at the election held on the day of \_\_\_\_\_ for and against a Penitentiary," which returns the said Secretary of State shall lay before the ensuing General Assembly.

Sec. II. Be it further enacted, That the Clerk of the County Court, in every County, shall put up, in some conspicuous place in the Court House, a fair copy of this act.

Sec. III. Be it further enacted, That if any Sheriff or other returning officer shall neglect to make the returns aforesaid, he shall forfeit and pay the sum of fifty dollars, to be recovered in the name and to the use of the State, on motion in the Superior Court of Law of the County of Wake, ten days' previous notice, in writing, of such intended motion, being given to such officer by the Secretary of State; which motion it shall be the duty of the Attorney General to make; and proceedings thereon shall be summary; and if any matter of fact shall be in issue, the same shall be tried at the first term; and on such trial, the certificate of the Secretary of State, of the particular default on which said motion shall be founded, shall be received as competent prima facie evidence to prove the same.

Sec. IV. Be it further enacted, &c. That the Governor of this State shall open a correspondence with the Executives of the several States, in which Penitentiaries are now established, and obtain such statistical information in relation to the expenditures and profits of such institutions, since the year 1839, as may in his view be necessary for the information of the people; and cause the same to be published in the newspapers of the State previous to the election.

Also obtain the different plans upon which Penitentiaries of other States have been constructed, the comparative cost of the cells under different plans, and submit the same to the next General Assembly.

[Ratified this 8th of January, 1845.]

### CHAPTER LXVI.

An Act to amend 103rd chapter of the Revised Statutes, entitled "an act concerning the improvement of rivers and creeks, and to prevent obstructions to their navigation."

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 the several Courts of Pleas and Quarter Sessions, where rivers and creeks have been or may hereafter be improved, under the provisions of the above recited act, to appoint, annually, overseers of the same, and assign such hands as they may judge proper to work on the rivers and creeks aforesaid, and keep in repair any slopes erected or to be erected; and the overseers thus appointed and notified, and the hands assigned, for a failure of duty, shall be liable to all the penalties imposed by law upon overseers of roads, and the hands liable to work thereon: Provided, that all slopes erected after any river or creek shall have been improved, under the provisions of said act, shall be built and kept in repair by the owner of the dam through which the slope is made; and on a failure so to do, he shall, in addition to the penalty imposed by the 9th section of said act, be indictable for a nuisance, in any Court having jurisdiction thereof.

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

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

### CHAPTER LXVII.

An Act to amend an act, entitled "an act to keep open the French Broad river, in the County of Buncombe, and the Tennessee river, in the County of Haywood, for the passage of fish," passed in the year 1825, chapter 118.

Be it further enacted, That if any person or persons shall fell timber in the French Broad river, from the three forks thereof to the Henderson County line, where said line crosses the French Broad river, they shall incur the same penalty prescribed in the first section of the before recited act: provided, that nothing herein contained shall be construed to affect owners of land who shall fell timber in said river in clearing and improving their lands, provided he, she or they shall remove the same within ten days.

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

### CHAPTER LXVIII.

An Act to open the Pedee and Yadkin rivers. 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 B. W. Simmons, of the County of Montgomery, Evan Hearn, of the county of Stanly, Lemuel D. Kerby, of the county of Anson, Presley Stanback, of the county of Richmond, shall be, and they are hereby appointed commissioners, who shall view and inspect the Pedee and Yadkin rivers, from the South Carolina line, at some time between the first day of February and the first day of September