

# THE RALEIGH STAR AND NORTH CAROLINA GAZETTE.

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NORTH CAROLINA—POWERFUL IN MORAL, INTELLECTUAL AND PHYSICAL RESOURCES—THE LAND OF OUR BIRTH AND THE HOME OF OUR AFFECTIONS.

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## LAW OF THE 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-SIX, AND ENDED ON THE EIGHTEENTH OF JAN. 7, ONE THOUSAND NINE HUNDRED AND FORTY SEVEN. (BY AUTHORITY.)

An Act to authorise the Board of Internal Improvements to make sale of the "Clubfoot and Harlow Creek Canal."

Sec. 1. *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 Board of Internal Improvement be, and it is thereby authorised and empowered, in its discretion, to make sale of the "Clubfoot and Harlow Creek Canal," to any individual or association of individuals, at such price, and upon such terms and conditions, as the said Board may think proper.

Sec. 2. *Be it further enacted,* That in case the Board of Internal Improvement shall effect a sale of the said "Clubfoot and Harlow Creek Canal," the purchaser or purchasers are hereby declared to be a body politic and corporate, by the name and style of the "Clubfoot and Harlow Creek [Canal?] Company," and shall be invested with all the powers, privileges, and immunities, and be liable to all the restrictions, liabilities, duties and penalties, prescribed by an act of incorporation passed by the General Assembly of the State of North Carolina, in the year 1813, entitled "an act to incorporate a company to be called the Clubfoot and Harlow Creek Canal Company," so far as the said act may be made applicable to the purchaser or purchasers of the said Clubfoot and Harlow Creek Canal aforesaid: *Provided however,* that in case of a sale of the said Canal by the Board of Internal Improvement, the said Board shall establish such rate of toll, for the transportation of produce and other articles on said Canal, as it may deem just and proper; which rates, and no other, shall be receivable by the purchaser or purchasers of said Canal.

Sec. 3. *Be it further enacted,* That the power hereby given to the Board of Internal Improvement to make sale of the said "Clubfoot and Harlow Creek Canal," if not exercised before the meeting of the biennial session of the General Assembly, shall cease and determine after that time.

Sec. 4. *Be it further enacted,* That this act shall be in force from and after its ratification. [Ratified 18th January, 1847.]

An Act for cutting a navigable Canal from the waters of the Yadkin to the waters of the Cape Fear, in this State.

Whereas the cutting of a canal from the waters of the Yadkin, to connect with the navigable waters of the Cape Fear, is deemed to be a work of vast importance, and would, when completed, greatly facilitate the transportation of produce from Western North Carolina, to a good market within the State; and whereas many persons are willing and desirous to subscribe large sums of money to meet the completion of said work, and it is just and proper that such persons, their heirs and assigns should be empowered to receive reasonable tolls forever, in satisfaction for the money advanced by them in carrying the work into execution, and the risk they run: Therefore,

Sec. 1. *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 and may be lawful, and the following persons are hereby empowered to open books for receiving subscriptions to the said undertaking, in the town of Fayetteville, and at such other places as they may deem proper, to wit: Giles W. Pearson, William H. Hardin, D. G. McRae, Edward J. Hale, John Morrison, S. C. Bruce, Murdock Persons, Alexander Kelly, and such other persons as they may choose to associate with them; and the said persons above named, and their associates are hereby declared and deemed to be a body corporate and politic, under the style and name of the Yadkin and Cape Fear Canal Company, and by that name may sue and be sued, plead and be impleaded, have a common seal, hold and possess real property, and have all such other powers as have been heretofore granted to like corporations.

Sec. 2. *Be it further enacted,* That the capital stock of said company shall be eighty thousand dollars, divided into shares of one hundred dollars each, each share to be represented in said company by one vote; and that when shares amounting to twenty five thousand dollars shall have been subscribed, the persons herein named, or a majority of them, are authorized and empowered to call a general meeting of the stockholders, for the purpose of electing a president and five directors, for conducting the said undertaking and managing all the business concerns of said company, for and during such time as the said stockholders, or a majority of them, may think fit, not exceeding two years.

Sec. 3. *Be it further enacted,* That the said president and directors so elected, and their successors, or a majority of them assembled, shall have power and authority, to agree with any person or persons, on behalf of said company to cut the said canal, and erect such locks and dams and perform such other works, as they shall judge necessary for the navigation of said canal, and conveying on the same, from place to place and from time to time, and upon such terms and in such manner, as they shall think fit; and out of the moneys arising from the subscriptions, tolls and other aids given, to pay for the same; and to repair and keep in order the said canal and other works thereto pertaining, and to defray all incidental charges; and also to appoint a treasurer, clerk, and such other officers as they may deem requisite; and also to make and establish rules of proceedings, and transact all other business and concerns of the said company; and during intervals of the general [meetings] of the same; and for their trouble, they shall receive such compensation as shall be by the general meeting of the stockholders determined upon.

Sec. 4. *Be it further enacted,* That, for and in consideration of the expenses that such proprietors will be at in completing said work, and maintaining and keeping the same in repair, the said canal and other works, with all their profits pertaining, shall be, and are hereby vested in the said proprietors, their heirs and assigns forever, as tenants in common, in proportion to their respective shares; and the said stockholders shall, through their agents, demand and receive, at such place or places as they may appoint, such toll or tolls, for all commodities transported through it, as may be determined upon by general meeting of stockholders; and further, that said stockholders, through their agents, shall have power to declare dividends semi-annually.

Sec. 5. And whereas, some of the places through which it

may be necessary to conduct said Canal, may be convenient for erecting mills and other water works; and the possessor of said property may desire to improve the same; and whereas, it is not the intention of this act to interfere with the rights of private property, but simply for the purpose of improving the navigation of said waters:

Sec. 6. *Be it enacted,* That the Water, or any part thereof, conveyed through said canal, shall not be used for any other purpose, than in this act specified, except by consent with and consent [?] of said company.

Sec. 7. *Be it further enacted,* That it shall and may be lawful for the said President and Directors, or a majority of them, to agree with the owners of land through which said canal passes, for the purchase thereof; and in case of disagreement, or in case the owner thereof shall be a *feme covert*, infant, or *non compos*, on application to any two Justices of the county in which said land shall lie, the said Justices shall issue their warrant, under their hands, to the Sheriff of said county, to summon a jury of freeholders, to meet on the land, on a day to be appointed in said warrant, to assess the damage the owners thereof will sustain from the cutting said Canal through their land; and such assessment shall be paid to the owners of the land, or their legal representatives; and on the payment thereof, such Company shall be seized in fee of said land, as if conveyed by the owners thereof, to them and their successors by legal conveyance.

[Ratified 18th day January, 1847.]

A Bill [?] supplemental to "An Act to incorporate the Yadkin and Cape Fear Company."

Whereas an act has been passed by the General Assembly, now in session, incorporating "the Yadkin and Cape Fear Canal Company," and it is believed that the capital of said Corporation will be insufficient to complete the said canal in the manner contemplated, and it is the desire of said corporation to use some of the many creeks or streams of water in the counties of Montgomery, Moore and Cumberland: Therefore,

Sec. 1. *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 said Yadkin and Cape Fear Canal Company shall have power and authority, a majority of the Stockholders agreeing thereto, to increase their Capital Stock to a sum not exceeding two hundred thousand dollars.

Sec. 2. *Be it further enacted,* That the said Yadkin and Cape Fear Canal Company shall have power and authority to use, on said Canal, any Creek or Creeks or other water courses, in the counties of Montgomery, Moore, or Cumberland, for the purpose of uniting the waters of the Yadkin River with the waters of the Cape Fear River by means of a canal: *Provided,* that the act shall not be construed to give to the said corporation power to interfere with any mill, mill seat or mill dam, without the consent of the owner thereof, his, her, or their agent or attorney.

[Ratified in General Assembly, 18th January, 1847.]

An Act to incorporate the New River and Bear Creek Canal Company, in Onslow County.

Whereas, the cutting of a navigable canal from the waters of New River, in Onslow county, to the waters of Bear Creek, in said county, will be of great public utility, and many persons are willing to subscribe sums of money to effect such a beneficial work, and as it is just and proper that they, their heirs and assigns should be empowered to receive reasonable tolls in satisfaction for money advanced by them to execute said work and for the risk they run:

Sec. 1. *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 and may be lawful to open books of subscription at the following places, in the county of Onslow, viz: At Swansborough, under the direction of William P. Ferrand, Charles H. Barnum and William C. Lamberson; at Starkey's Creek, under the direction of David W. Sanders; at French's Mills, under the direction of Joseph M. French, Isaac N. Sanders, and Edward W. Sanders; at Piney Green, under the direction of Luke B. Huggins, Philip Koonce and David W. Simmons; on the Sound, under the direction of John Hurst and William Andrew Jackson Pollock; at Jacksonville, under the direction of George J. Ward, William Ferrand, William P. Pelletier, Edward W. Montfort, Nathaniel Hancock, Lewis Davis, Owen Huggins and Jasper Etheridge; on South West, under the direction of George McMillan, Joshua Foy and John Spicer; and at Richland's, under the direction of John H. Averitt, Charles Duffley, John M. Franks and William Humphrey; and also to open books at the following places in the county of Carteret, viz: at the Straits, under the direction of David W. Whitehurst and Elijah C. Pigott; at Beaufort, under the direction of Isaac Ramsey, John F. Jones, Thomas Duncan, William C. Bell, Benjamin L. Perry, Benjamin Lestratt, Marcus C. Thomas, Belcher Fuller, John P. C. Davis, James Rumley and William I. Langdon; at Bogue Sound, under the direction of Levi Oglesby, William N. Dennis, and Barclay D. Borden; and at White Oak, under the direction of William F. Bell, (3rd) and Elijah S. Bell, for receiving subscriptions, to the amount of ten thousand dollars for said undertaking. The subscriptions shall be made personally, or by power of attorney, in shares of fifty dollars each. The said books shall be opened at any time after the first day of March next; and that a meeting of the subscribers shall be called at Swansborough, in Onslow county, after the sum of three thousand dollars shall be subscribed; and the managers aforesaid, or any two of them, shall give notice of the said meeting in any newspaper published in the town of Newbern, and by advertisement in the most public places in the counties of Onslow and Carteret, one month at least before the day appointed for that purpose; and that the managers shall then and there lay before the said meeting the books by them kept, containing a statement of the subscriptions made; and the meeting shall and may be continued from day to day until the business is finished.

Sec. 2. *Be it further enacted,* That as soon as sixty shares of said capital shall be subscribed as aforesaid, the subscribers, their heirs and assigns shall be and they are hereby declared to be incorporated into a company by the name and style of "the New River and Bear Creek Canal Company," and by said name may sue and be sued; have a common seal, alterable at pleasure, and be invested with all the rights and powers properly and lawfully belonging to a body corporate; and the subscribers are hereby authorized and required to elect a president and four directors for conducting the said undertaking and managing all the business and concerns of said company, for such time, not exceeding one year, as said subscribers shall think fit. In counting the votes at the general meeting of said company, each member shall be al-

lowed one vote for each and every share held by him or her as far as ten shares, and one vote for every five shares, above ten. Any proprietor, by writing under his or her hand, executed before two subscribing witnesses, and acknowledged or proved before a Justice of the Peace of the county in which said subscriber shall reside, may depu- a member to act as proxy for him or her; and the acts of said proxy shall be as effectual as the acts of his or her principal would be.

Sec. 3. *Be it further enacted,* That every President and Director, before he acts as such, shall take and subscribe an oath or affirmation, for the due exercise of the duties of his office.

Sec. 4. *Be it further enacted,* That the presence of the proprietors owning a majority of shares shall be necessary to constitute a general meeting; and that from and after the first general meeting of subscribers, the general meetings shall annually thereafter be held on the first Monday in June, at Swansborough aforesaid; but if a sufficient number shall not attend on that day, the proprietors who do attend may adjourn such meeting from day to day until the business of the company is finished; to each of which meetings the President and Directors shall make a report, and render distinct and just accounts of all their proceedings; and on finding them fairly and justly stated, the proprietors then present, or a majority of them, shall give them a certificate, a duplicate of which shall be entered on said company's books, and the original filed among the papers of the President and Directors.

Sec. 5. *And be it further enacted,* That if more than ten thousand dollars shall be subscribed, it shall be reduced to that sum by the managers, or a majority of them, by beginning to strike off a share from the largest subscription made by individuals in the first instance, and continue to strike off one share from all subscriptions under the largest and over two shares, until the same is reduced to ten thousand dollars as aforesaid. In making subscriptions for stock, any person may subscribe for one or more shares, but not for a part of a share.

Sec. 6. *And be it further enacted,* That the said President and Directors, or a majority of them, shall have power, on behalf of said Company, to agree and contract with any person or persons to cut, dig and open a Canal of such depth and width and at such place or places, between the waters of New River and Bear Creek, in the county of Onslow; so as to connect and unite the waters of said river and creek by means of said Canal, as they shall think fit, and deem most eligible; and to erect such locks and perform such other works as they shall judge necessary for the navigation of said Canal and carrying on the same from place to place and from time to time, and upon such terms and in such manner, as they shall think fit and right; and out of the moneys arising from the subscriptions and tolls, to pay for the same; and to repair and to keep in order the said canal, locks and other works and buildings necessary thereto; and to defray all incidental charges; and also to appoint and employ, removable at their pleasure, all such officers, clerks and servants as in their judgment shall be necessary for carrying on the affairs of said Company; to establish the salaries and conditions on which their officers shall be employed; to make by-laws, and establish rules of proceedings not inconsistent with the laws and constitution of the State; and generally to do all such things as the said President and Directors shall think fit to do in the management of the same: Any general meeting of the proprietors may allow the President and Directors such sum of money as the said general meeting shall judge to be a reasonable compensation, for their trouble and services: *Provided always,* That the Treasurer shall give bond, in such penalty and with such security, as the said President and Directors, or a majority of them, shall direct, for the true and faithful discharge of the trust reposed in him, and for his good behaviour in the discharge of the duties of his office; which said bond shall be made payable to "the President and Directors of the New River and Bear Creek Canal Company," and in that name it shall and may be lawful to institute a suit or suits against the said officer and his security or securities upon said bond, for any neglect, misconduct or misbehaviour in office of said Treasurer; and that no officer in the said Company shall have a vote in the settlement or passing of his own account.

Sec. 7. *Be it further enacted,* That each proprietor shall pay, at the first general meeting at which the President and Directors shall be appointed an amount of ten dollars on each and every share by him or her held in said Company. The name of those then and there failing to pay may be struck off the books, and others complying with this regulation may take their shares, or such delinquents may be sued or warranted for such sums of money as they may fail or refuse to pay according to the amount so due from them, at the discretion of said President and Directors. The President and Directors, or a majority of them, shall have power to direct at what times and in what proportions the subscribers shall pay the sums by them respectively subscribed; and the orders of this payment shall be advertised at the Court house doors in Jacksonville and Beaufort, and such other places as the President and Directors shall direct. But the said President and Directors shall not demand more than twenty five dollars on a share in one year, unless otherwise directed by a general meeting of the stockholders. If any of the subscribers or proprietors, their heirs or assigns, shall fail to pay the advances required after the payment of the first instalment of ten dollars, within one month after the time assigned for the payment thereof by the President and Directors as aforesaid, the said President and Directors, or a majority of them, are hereby authorized to sell at auction and convey to the purchasers the share or shares of the subscribers or proprietors so failing, giving at least one month's previous notice, as herein before directed, and after retaining the sums due thereon, with interest and incidental charges, the said President and Directors, or a majority of them, may, in the name of the Company, sue for and recover the balance, in any Court of competent jurisdiction.

Sec. 8. *And be it further enacted,* That from time to time, on the expiration of the term for which the said President and Directors may be appointed, the proprietors, at their general meeting, shall either continue the said President and Directors in office, or any of them, or choose others in their stead; and in case of death, removal, or resignation, or refusal to act of the President or any of the Directors, the remaining members of that body may appoint a successor until the next general meeting; and the proprietors at their next general meeting shall fill up such vacancy; and may, at any general meeting, remove the President or any of the Directors and appoint others in their stead; and during the term for which such person or persons was at first to have acted.

Sec. 9. *And be it further enacted,* That in consideration of the expenses the said proprietors will be at in cutting the said Canal, erecting locks, and sluices; and performing other works necessary for the navigation of said Canal, and maintaining and keeping the same in repair, the said New River and Bear Creek Canal, locks, fixtures, buildings and every thing appertaining to the same, and to the navigation thereof, together with the land that may be bought, purchased or condemned for the same, and that may be required for the same, shall be, and they are hereby vested in the proprietors, their heirs and assigns forever, as tenants in common, in proportion to their respective shares; and the same shall be exempt from the payment of any tax, imposition or assessment whatever, for the term of fifteen years; and after that period, the Legislature may impose such reasonable tax thereon as it shall deem just, not exceeding the rate of six-

per cent on similar property belonging to individuals; and shall and may be lawful for said proprietors, in general meeting assembled, to levy and collect a reasonable toll on all goods, wares and merchandise, and on all lumber, staves, shingles, turpentine, or other produce or commodity whatsoever, which may be transported up or down said canal, either in boats or rafts, or other way; and on all empty boats; which tolls shall be paid to a person appointed by the President and Directors to receive the same, and at such place or places as they may designate, by the owner, commander or person having charge of any such boat or raft: *Provided,* That an empty boat or vessel returning, whose load or cargo has already paid the sums fixed as toll, shall pay no toll: *and provided further,* That the said tolls shall be abated in cases where only a partial navigation shall be used, in proportion to the distance through which any person or persons may pass; and if any person or persons shall refuse to render an account of their cargo or other articles, and pay the toll at the time of offering to pass, and previous to passing through the canal, or any part thereof, the collector may lawfully refuse a passage to the person or persons so refusing; and if any boat, vessel or raft, or other thing, shall pass without paying the toll, then the collector may lawfully seize such boat, vessel, raft or other thing, and sell the same at auction for ready money, after advertising the said sale at least ten days; the money arising from said sale, so far as is necessary, shall be applied towards the payment of said tolls, and expenses of seizure and sale; and the balance, if any, shall be paid to the owners and the person having the direction of the said boat, vessel, raft or other thing, or the owner thereof; shall be liable for such tolls, if the same are not paid by the sale aforesaid: *Provided,* That if at any time the rate of tolls fixed, by the said company, under this section, shall yield a greater amount of net profits than shall be equal to fifteen per cent, upon the amount of capital actually expended in the construction of said works, then the President and Directors shall reduce the rates of transportation to such sums as shall bring the net profits down to the proportion of fifteen per cent as aforesaid.

Sec. 10. *And be it further enacted,* That the president and directors of said company shall, every five years after their works are completed and ready for transportation of produce, make return to the General Assembly of this State of the amount of toll received by them for the preceding five years, which return shall be sworn before one of the Judges of the Superior Courts of law of this State, or in open court, in some one of the county courts of this State.

Sec. 11. *And be it further enacted,* That the canal and works of said company, done in pursuance of this act, when completed, shall forever thereafter, as public highways, be for the transportation of any goods, wares, commodities or produce whatsoever, on payment of tolls imposed by said company. And whereas it may be necessary that certain portions of land may be necessary to be condemned for the purposes of this canal:

Sec. 12. *Be it further enacted,* That it shall be lawful for the president and directors, or a majority of them, to agree with the owners of the lands on the route which may be selected for the location of said canal, or through which it is intended for said canal to pass, for the purchase thereof, and in case of disagreement, or if the owner thereof shall be an married woman, under age, deprived of reason, or otherwise, the said President and Directors of the Peace shall issue their warrant to the Sheriff of Onslow county, to summon a jury of six or more freeholders not related to the parties, and disinterested, to meet on the land to be valued, on a day to be mentioned in said warrant, not less than ten nor more than twenty days thereafter; and the Sheriff, on the receipt of said warrant, shall summon the said jury, and when met, shall administer an oath or affirmation to each of them, provided twelve or more appear, to wit: That he will impartially value the land in question, and consider and assess the damages the owner thereof may sustain in consequence of being deprived of his property therein; and the question so taken shall be signed by the Sheriff and twelve jurors to be selected or sworn at the time for that purpose; and returned to the clerk of Onslow county court, to be recorded by him; and in all such cases the jury is directed to describe the lands valued, and their valuation shall be conclusive; and on payment of the price or valuation so made as aforesaid, by the president and directors, to the owner of the land valued, or his heirs or legal representatives, and if neither can be found in the State, or if found, should refuse to receive the money, then to the clerk of the court of Pleas and Quarter Sessions of Onslow county, the said company shall be seized during the existence of this charter of the land valued, in the same manner as if duly conveyed to them by the owner or owners thereof during the existence of this charter, by proper legal conveyance: *Provided,* that such condemnation shall not interfere with dwelling houses or the cottages; and that a body or strip of land along the route of said canal not exceeding three hundred and fifty feet in width shall be condemned for the purposes of said canal and the construction thereof.

Sec. 13. *And be it further enacted,* That the President and Directors, or a majority of them, may agree with the proprietors or proprietor of any lands for a quantity not exceeding four acres, at or near the place for collecting the tolls aforesaid, for the purpose of erecting necessary buildings; or in case of disagreement or any of the disabilities aforesaid, or the proprietor or proprietors being out of the State, the same proceedings may be had, and the same consequences shall follow, as are directed in the next preceding section.

Sec. 14. *And be it further enacted,* That it shall and may be lawful for any proprietor to transfer, his or her share or shares, by deed, registered, after proof of the execution thereof, in the company's books, and not otherwise, except by devise, which devise shall be exhibited to the President and Directors and registered in the books of the company before the devise shall be entitled to draw any part of the profits from said tolls: *Provided,* that no transfer shall be made except for one or more shares and not for a part of a share; and no share shall be sold, conveyed or held in trust, for the use or benefit, or held in the name of another, whereby the President and Directors or proprietors may be members of said company or any of them, shall or may be challenged or made to answer any such trust; but any person appearing to be a proprietor, shall, as to others of said company, be to every intent taken absolutely as such; but between any trustee and the person for whose benefit such trust shall be created, the common remedy may be preserved.

Sec. 15. *And be it further enacted,* That if the said capital should prove insufficient, of the amount subscribed should not be sufficient, it shall and may be lawful for the said company from time to time to increase the capital by the addition of so many more whole shares as shall be judged necessary by the proprietors, members of said company, or a majority of them, in interest of them, who shall be present at any general meeting, and on such terms as the said general meeting shall think fit; and the said President and Directors, or a majority of them, are hereby authorized, empowered and required, after giving one month's previous notice, to open books at the before mentioned places for receiving and entering such additional subscriptions.