

which the proprietors for the time being are hereby declared to have preference to all others, for the first thirty days after the said books shall be opened as aforesaid, of taking and subscribing for as many whole shares as any of them shall choose; and the President and Directors are hereby required to observe, in all other respects, the same rules therein as are by this act prescribed for receiving and adjusting the first subscriptions; and all proprietors of such additional shares are hereby declared to be from thenceforward incorporated into said company.

Sec. 16. *Be it further enacted*, That if the said company shall not complete the said canal so as to admit passage of boats through the same within five years from the first day of January, A. D. 1848, all preference in favor of said company shall be forfeited: *Provided*, that if the said company shall at the expiration of the said five years have completed two thirds of said canal they shall have a further time of two years to complete the same.

Sec. 17. *Be it further enacted*, That if any person or persons shall be sued for any thing done in pursuance of this act, he or they may plead the general issue, and give this act and the special matter in evidence; and on a verdict against the plaintiff or plaintiffs, or nonsuit or discontinuance, recover costs of suits.

Sec. 18. *Be it further enacted*, That the privileges herein granted to the said company shall be and cease to them and their successors for the term of ninety years, and no longer.

Sec. 19. *And be it further enacted*, That all laws and clauses of laws coming within the meaning and purview of this act, be, and the same are hereby declared null and void.

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

#### An Act to incorporate the Orapeake Canal and Turnpike Company.

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 at Gatesville, in the county of Gates, under the direction of William G. Daugherty, Timothy Lassiter, Robert H. Bullard, Thomas Riddick and John Gatlin, or any three of them; and at Powell's and Harrell's Store, in said county, under the direction of John C. Gordon, Isaac L. Harrell, Andrew Voight, Purwell Brothers and Thomas Powell, or any three of them; and at Deep Creek, in the county of Norfolk, and Commonwealth of Virginia, under the direction of Edward Harrell, Henry Cating, and Dr. Arthur Smith, or any two of them; for the purpose of receiving subscriptions, to the amount of twenty five thousand dollars, for the purpose of opening a canal, and constructing a Turnpike Road, from the high lands of the White Oak Spring Marsh, in Gates county, to the Dismal Swamp Canal, and likewise from the said high lands of the White Oak Spring Marsh to Bennett's Creek, in said county of Gates; which subscriptions shall be made personally, or by power of Attorney; that the said books shall be opened for receiving subscriptions, on the first day of June next, at the several places aforesaid; and continue open until the first day of September next, inclusive; and on the third Monday of September aforesaid, there shall be a general meeting of the subscribers, at Powell's and Harrell's Store aforesaid, of which meeting of the subscribers, notice shall be given by any three of the directors, or managers aforesaid, in one of the newspapers published in the city of Norfolk, Virginia, and in the "Old North State," in Elizabeth City, in the before the said meeting; and such meeting shall not be continued from day to day, until the business is fully completed and gone through with; and the acting directors or managers aforesaid shall, at the time and place aforesaid, lay before such of the subscribers as shall meet according to the said notice, the books by them respectively kept, containing the state of the said subscriptions. And if one third part of the amount of capital stock aforesaid shall, on examination, appear not to have been subscribed, then the said managers or directors, or any three of them, are empowered to take and receive further subscriptions to make up the deficiency of one third of the amount of the capital sum aforesaid, at any time before the first day of June, 1848; and if it shall appear at any time before the first day of June, 1848, that one third of the capital stock aforesaid has been subscribed, the directors or managers aforesaid, shall at such time as they may appoint, call a general meeting of the subscribers, by advertisement as aforesaid, at Powell and Harrell's Store; and upon examination of the books, if it shall appear to the subscribers that one third of the capital sum aforesaid has been subscribed, they shall then proceed to divide the capital sum aforesaid into two hundred and fifty shares, of one hundred each, of which every person subscribing may take and subscribe for one or more whole shares, according to the amount of his or her previous subscriptions, and not otherwise.

Sec. 2. *And be it further enacted*, That in case one third of the said capital, or a greater sum shall be subscribed as aforesaid, the said subscribers, and their heirs and assigns, from the time of the meeting at which it shall have been ascertained that one third of the capital had been subscribed as aforesaid, shall be, and are hereby declared to be incorporated into a company by the name of "the Orapeake Canal and Turnpike Company;" and may sue and be sued as such, and have succession and corporate existence for a period of fifty years; and such of the said subscribers as shall be present at the said meeting, or a majority of them, are hereby empowered and required to elect a president and three directors for the conducting the said undertaking, and managing all the business of said company for and during such time, (not exceeding three years,) as the subscribers, or a majority of them, shall think fit; and in counting the votes of all general meetings of the said company, each member shall be allowed one vote for every share under ten shares, and one vote for every two shares above ten, by him or her held at the time in said company; and any proprietor by writing under his or her hand, executed before two witnesses, may depute any other member or proprietor to vote and act as proxy, for him or her, at any general meeting.

Sec. 3. *And 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 the said company, to cut the said canal and construct the said Turnpike Road, and perform such other works as they shall judge necessary, for the navigation of the said canal, the completion of the said turnpike road, and the carrying on the same from place to place, and from time to time, and upon such terms, and in such a manner as they shall think fit; and out of the moneys arising from the subscriptions and tolls and other moneys hereafter in this act given, to pay for the same; and to repair and keep in order the said canal and canal locks and other works necessary thereto, and to defray all incidental charges; and also to appoint a treasurer, clerk, and such other officers, toll-gatherers, managers, and servants as they shall judge requisite; and to agree for and settle their respective wages or allowances; and settle, pass and sign their accounts; also to make and establish rules of proceeding, and conduct all the other business and concerns of said company during the interval between the general meetings

of the same; and they shall be allowed, in satisfaction for their troubles therein, such sums of money as by the general meeting of the subscribers shall be determined: *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 that the allowance to be made to him for his services, shall be regulated by a general meeting of the stockholders; and that no officer in the said company shall have a vote in the settlement or paying of his own account.

Sec. 4. *And be it further enacted*, That before commencing the public work, herein contemplated, the President and Directors shall have full power and authority, and they are hereby required to cause the said stockholders to pay to the Treasurer of the company one fifth of the amount by him or her subscribed, as aforesaid; and to order, direct, and prescribe at what times and what proportions said stockholders shall pay the remaining portion or portions by them respectively subscribed; which orders and requirements shall be advertised at least one month in some one of the newspapers hereinbefore specified; and they are hereby authorized and empowered, through the treasurer aforesaid, to demand and receive of the several stockholders, the one fifth part of the several amounts by them subscribed, and likewise, from time to time, the sums of money so ordered to be advanced and paid for carrying on and executing or repairing and keeping in order the said works, until the sums subscribed shall be fully paid; and to be by said treasurer disbursed and laid out as the said President and Directors, or a majority of them, shall order and direct: And if any of the said stockholders shall refuse or neglect to pay their said proportion, within one month after the same is so ordered and advertised as aforesaid, the President and Directors, or a majority of them, may sell at auction and convey to the purchaser, the share or shares of such stockholder or stockholders so refusing or neglecting payment, giving at least one month's notice in some of the newspapers hereinbefore specified; and all such sales shall be in the town of Gatesville aforesaid; and after retaining the sum due, with the interest thereon, and charges of sale, out of the money arising therefrom, they shall refund and pay the surplus, if any, to the former owner or owners; and if such sale shall not produce the full sum ordered and directed to be advanced as aforesaid, with interest and incidental charges, the President and Directors, or a majority of them, in the name of the company, shall sue for and recover the balance, by motion in any Court having jurisdiction thereof, on ten days' previous notice; and the said purchaser or purchasers shall be subject to the same rules and regulations, and entitled to the same profits and privileges, as if the sale and conveyance had been made by the original stockholder, and to continue the succession of the said President and Directors, and to keep up the same number.

Sec. 5. *And be it further enacted*, That from time to time, on the expiration of the term for which the said President and Directors are appointed, the stockholders of said company, at the next general meeting, shall either continue the said President and Directors, or any of them, or shall choose others in their stead; and in case of the death, removal, resignation, or incapacity of the President or any of the Directors, may and shall, in manner aforesaid, elect any other person or persons to be President and Directors, in the room of him or them so dying, removing, resigning, or becoming incapable of acting; and may, at any of their general meetings, remove the President or any of the Directors, and elect others in their stead, and during the remainder of the term for which such person or persons were elected.

Sec. 6. *And be it further enacted*, That every President and Director, before he acts as such, shall take an oath or affirmation, for the due execution of his office.

Sec. 7. *And be it further enacted*, That the presence of stockholders having twenty shares at least, shall be necessary to constitute a general meeting; and that there be a general meeting of stockholders, on the third Monday in July in each and every year, at such convenient place as shall from time to time be appointed by the said general meeting; but if a sufficient number should not attend on that day, the stockholders who do attend, may adjourn such meeting from day to day, until a general meeting of stockholders shall be had, which may be continued from day to day until the business of the company is finished; to which meeting the President and Directors shall make report, and render just account of all their proceedings; and, on finding them fairly and justly stated, the stockholders then present, or a majority of them, shall give certificate thereof, a duplicate of which shall be entered on the said company's books; and at such yearly or general meetings, after leaving in the hands of the treasurer, such sum as the Stockholders, or a majority of them, shall judge necessary for the repairs and contingent charges, equal dividends of all the net profits arising from the tolls hereby granted, shall be ordered and made to the stockholders of said company, in proportion to their several shares: And on any emergency, in the interval between the said yearly meeting, the President or a majority of the Directors may appoint a general meeting of the stockholders of the company, at any convenient place, giving at least one month's notice, in some one of the newspapers hereinbefore specified, which meeting may be adjourned and continued as aforesaid.

Sec. 8. *And be it further enacted*, That for and in consideration of the expenses the said stockholders will incur, not only in cutting the said canal, erecting locks, constructing the said Turnpike Road, and performing other works incident and necessary to this undertaking, but in maintaining and keeping the same in repair, the said canal, locks, turnpike, and other works, with all their profits, shall be, and the same are hereby vested in said stockholders, their heirs and assigns, as tenants in common, in proportion to their respective shares; and the same shall be deemed real estate; and it shall and may be lawful for the said President and Directors, whenever the canal and turnpike road aforesaid shall be completed from the high lands of the White Oak Spring Marsh to the Dismal Swamp Canal, to demand and receive, at such point as they may designate on the road aforesaid, for all commodities transported through said canal, one half the amount of tolls now received, by the Dismal Swamp Canal Company; and for transportation on the Turnpike Road aforesaid, to demand and receive as aforesaid, one half the amount of tolls now received on the turnpike running parallel with said Dismal Swamp Canal: *Provided*, that the said stockholders, or a majority of them, shall have full power and authority, at any general meeting, to reduce said tolls, or any of them, or to determine that any article may pass free of toll.

Sec. 9. *And be it further enacted*, That if it shall appear to the stockholders aforesaid, after the completion of the canal and turnpike from the high lands of White Oak Spring Marsh to the Dismal Swamp Canal, there shall not remain of the funds heretofore directed to be subscribed and paid a sufficiency thereof to enable the said company to carry on and complete the canal and turnpike, from the point of departure aforesaid to Bennett's creek, then and in that case, it shall and may be lawful for the stockholders aforesaid in general meeting, a majority being present, to

cause books to be reopened at such time as they may deem fit, at the places and under the management of the same persons, as hereinbefore set forth in the first section of this act, or under the management of such other persons as may be appointed by the stockholders in general meeting as aforesaid, for the purpose of receiving further subscriptions, for carrying out and completing the public works aforesaid; and keep such books open for such length of time as the said stockholders in general meeting as aforesaid, shall direct, until the whole of the capital sum of twenty five thousand dollars shall have been subscribed, or so much thereof as by the stockholders, or a majority of them, may be deemed sufficient for the purposes herein set forth; which said subscriptions, when so as aforesaid subscribed, shall be managed, regulated and controlled as is hereinbefore provided and prescribed for previous subscriptions. And the president and directors and stockholders are hereby invested with all the powers and authorities relative to the subscriptions set forth and contemplated in this section, that they are permitted to have and exercise relative to the subscriptions hereinbefore specified.

Sec. 10. *And be it further enacted*, That whenever it shall be deemed expedient for a majority of the stockholders in general meeting, in view of the condition of their funds and the state of the subscriptions authorized in the preceding section of this act, to commence the prosecution of the work aforesaid, from the high lands of the White Oak Spring Marsh, to Bennett's creek aforesaid, they are hereby authorized and empowered so to do.

Sec. 11. *And be it further enacted*, That the said president and directors, their officers, agents and servants, shall have full power and authority to enter upon all lands and tenements, through which they may desire to conduct their canal and turnpike road, and to lay out the same according to their pleasure, so that the dwelling house, kitchen, yard or garden of no person be invaded, without his or her consent: And the said president and directors, or a majority of them, are authorized and empowered to agree with the owners of any land, through which said canal and turnpike road are intended to pass, for the purchase thereof; and in case of disagreement, or in case the owner thereof shall be a feme covert, under age, non compos, or out of the State, application by petition to the county court of the county in which said land shall lie, may be made; and upon such application, the court shall appoint five disinterested and impartial freeholders, to assess the damages to the owner from the condemnation of the land for the purposes aforesaid; no such appointment, however, shall be made unless ten days' previous notice of the application shall have been given to the owner of the land, or guardian, if the owner be an infant or non compos, if such owner or guardian be found within the county, or, if he or she cannot be found, then appointment shall not be made unless notice of the application shall have been published at least one month next preceding in some newspaper printed as convenient as may be to the court house of the county, and shall have been posted at the door of the court house on the first day of the next preceding term of said court: A day for the meeting of the said freeholders, to perform the duty assigned them, shall be designated in the order appointing them: of the five freeholders so appointed, any three or more of them may act, after having been duly sworn, before some Justice of the Peace, that they will impartially and justly to the best of their ability, ascertain the damages which will be sustained by the proprietor of the land, from the condemnation thereof for the use of the company; and that they truly certify their proceedings thereupon to the county court.

Sec. 12. *And be it further enacted*, That it shall be the duty of said freeholders, in pursuance of the order appointing them, to assemble on the land proposed to be condemned; and after viewing the same, and hearing such proper evidence as may be offered by either party, they shall ascertain, according to their best judgment, the damages which the proprietor of the land will sustain by the condemnation thereof, for the use of the company.

Sec. 13. *And be it further enacted*, That when the said freeholders shall have agreed upon the amount of damages, they shall forthwith make a written report of their proceedings, under their hands and seals, to the next term of the court aforesaid thereafter to be held; and unless good cause to the contrary be shown, said report shall be confirmed by the court and entered of record; but if said report should be disaffirmed, or if said freeholders should, from any cause, fail to make report as required, the court may in its discretion, as often as may be necessary, supersede them, or any of them, appoint others in their stead, and direct another view to be made, and report, in the manner above prescribed.

Sec. 14. *And be it further enacted*, That on the confirmation of any such report, and on payment or tender to the proprietor of the land, of the damages so assessed, or the payment of said damages into court, the land viewed and assessed as aforesaid, shall be vested in the "Orapeake Canal and Turnpike Company;" and they shall be adjudged to hold the same in fee simple, in the same manner, as if the proprietor had sold and conveyed it to them: *Provided however*, that the quantity thus condemned, shall at no point exceed sixty feet from the outer margin of the canal and turnpike aforesaid.

Sec. 15. *And be it further enacted*, That all laws and clauses of laws coming in conflict with the provisions hereof, be, and the same are hereby repealed.

[Ratified 18th January, 1847.]

An Act to repeal an Act, entitled "An Act to amend an Act, entitled an Act concerning the mode of choosing Senators and Representatives in the Congress of the United States," Revised Statutes, chapter 72, ratified the 17th day of January, A. D. 1843, and for the purpose of securing a just and proper division of the State into Congressional Districts.

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 act entitled "An Act to amend an Act concerning the mode of choosing Senators and Representatives in the Congress of the United States," Revised Statutes, chapter 72, be, and the same is hereby repealed.

Sec. 2. *Be it further enacted*, That the third section of the act, chapter 72, Revised Statutes, be, and is hereby so altered and amended, for the purpose of electing Representatives to the Congress of the United States, as to divide the State into nine instead of thirteen districts; and the said nine districts shall be composed of the following counties, to wit: The first district shall be composed of the counties of Cherokee, Macon, Haywood, Buncombe, Henderson, Rutherford, Burke, McDowell, Yancy, Cleveland, and Caldwell. The second district shall be composed of the counties of Ashe, Wilkes, Surry, Davie, Rowan, Iredell and Catawba. The third district shall be composed of the counties of Lincoln, Gaston, Mecklenburg, Union, Anson, Stanly, Cabarrus, Montgomery, Richmond, and Moore. The fourth district shall be composed of the counties of Stokes, Rockingham, Guilford, Randolph and Davidson. The fifth district shall be composed of the counties of Granville, Caswell, Person, Orange and Chatham. The

sixth district shall be composed of the counties of Wake, Franklin, Warren, Halifax, Edgecomb, Nash and Johnston. The seventh district shall be composed of the counties of Cumberland, Robeson, Columbus, Bladen, Brunswick, New Hanover, Sampson, Duplin and Onslow. The eighth district shall be composed of the counties of Wayne, Greene, Lenoir, Jones, Craven, Carteret, Beaufort, Pitt, Hyde, Washington and Tyrrell. The ninth district shall be composed of the counties of Martin, Bertie, Hertford, Northampton, Gates, Chowan, Perquimans, Pasquotank, Camden and Currituck.

Sec. 3. *Be it further enacted*, That the eighth section of said act, chapter 72, Revised Statutes, shall be, and the same is hereby amended, so as to make it the duty of the Sheriff, or other returning Officer of the counties of each of the said districts, to meet together on the Thursday next after each election, to compare the polls at the places hereinafter named, but in other respects under the same rules and regulations as are required by said act; that is to say, in the first district, at the court house in Asheville, in the county of Buncombe; in the second district, at Hamptonville, in the county of Surry; in the third district, at the court house in Albemarle, in the county of Stanly; in the fourth district, at the court house in Greensborough, in the county of Guilford; in the fifth district, at the court house in Hillsborough, in the county of Orange; in the sixth district, at the court house in Nashville, in the county of Nash; in the seventh district, at the court house in Elizabethtown, in the county of Bladen; in the eighth district, at the court house in Washington, in the county of Beaufort; and in the ninth district, at the court house in Gatesville, in the county of Gates.

Sec. 4. *Be it further enacted*, That this act shall take effect from and after the fourth of March next. [Ratified the 2nd day of January, 1847.]

#### An Act to lay off and establish a new County by the name of Alexander.

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 a new county be, and it is hereby laid off and established, by the name of Alexander, to be composed of parts of the counties of Iredell, Caldwell and Wilkes; beginning on the Wilkes and Iredell line, where the same crosses the Cove Gap Road, and running thence a Westerly or North Westerly direction, as the case may be, so as to strike the top of the main ridge of the Brushy Mountain, near James Robinett's, leaving the said Robinett's house on the south side of said line; thence with the main dividing ridge of said mountain to a point two miles east of Cox's Knob, provided the said knob be found on the main ridge; if not, then to a point two miles east of a line, running the nearest and most direct course from the top of said knob to the top of the main ridge of the said Brushy Mountain; thence a direct line to the mouth of the branch on the main road near Steel's Old Mill; thence a south westerly direction to a point on the Catawba River, one mile, in a direct line, below the mouth of upper Little River; thence down the said Catawba River to Nimrod Pendergrass's; thence a north east direction to the Ferry Road; thence with the Ferry Road to the Mountain Road; thence a direct line to the eleven mile post, on the Statesville Road thence a direct course to Robert G. Martin's; thence direct to the Wilkes line, one and a half miles west of the widow Jane Redman's; thence with the said Wilkes and Iredell line to the beginning: *Provided, nevertheless*, that it may be competent for, and shall be the duty of the County Court of Wilkes county, a majority of the acting Justices of the Peace being present, at any term of said Court which may happen before the first day of June next, to appoint some competent person of skill and probity, as a Commissioner, to ascertain the amount of the county indebtedness or liabilities of the said Court of Wilkes, for costs and charges, or other liabilities, incurred by the said county, or with which the said county is justly chargeable, up to the period at which said appointment shall be made; and the said Commissioner shall also proceed to ascertain the rateable proportion of the aforesaid liabilities, which would be due from those citizens, residing within the limits of that portion of the said county proposed to be stricken off by the boundary aforesaid; and when the result of the whole shall be so ascertained by the Commissioner aforesaid, he shall make a full report thereof, in writing, to the County Court of Wilkes, at the next succeeding term after said appointment.

Sec. 2. *Be it further enacted*, That the said County Court of Wilkes shall have full power and authority, at the time the county taxes are levied in said county to levy and assess, upon the lands and polls in that portion of the county hereby proposed to be stricken off from the said county of Wilkes, such amount of taxes (not exceeding in rate the amount assessed or levied on other citizens of the said county,) as they shall deem just and reasonable; and so to continue from year to year, if necessary, until the whole amount of the rateable proportions of the said citizens, ascertained as aforesaid, shall be fully paid and satisfied; and the Sheriff or other collecting officer of Wilkes county shall have the same power and authority to collect and to enforce the payment of the same, as by the existing laws, Sheriffs have and possess in the collection of public taxes.

Sec. 3. *Be it further enacted*, That for the purpose of enabling the county court of Wilkes to levy taxes as provided for in the preceding section, they shall have power and authority to appoint a magistrate within the county of Alexander, to take a list of the taxables within that portion of the territory hereby proposed to be taken from the county of Wilkes; whose duty it shall be to take a list thereof, at the same time and under the same rules and regulations, as lists of taxables are now taken; which list, when so taken, shall be returned by the said magistrate to the county court of Wilkes, at the same time as lists are now required to be returned; and on failure thereof, the said magistrate shall forfeit and pay the sum of fifty dollars, to be recovered by the county trustee of said county, on motion to the county court, on giving ten days' previous notice; which forfeiture, when collected, shall be paid into the county treasury.

Sec. 4. *Be it further enacted*, That upon the return of the tax list as aforesaid, the clerk of the county court of Wilkes shall, in making out the tax books or duplicates for collection, include therein the list returned by the magistrate, as provided for in the last preceding section; and the Sheriff or other collecting officer shall proceed to collect the same as other public taxes.

Sec. 5. *Be it further enacted*, That nothing herein contained, shall be so construed, as to prevent either the present or late Sheriffs of the counties of Wilkes, Iredell and Caldwell, from collecting any tax which may have been heretofore levied, or which may be levied before this act takes effect, on the citizens of the respective portions of their counties proposed to be created into a separate county, which, by the existing law, they have a right to collect.

Sec. 6. *Be it further enacted*, That the county court of Wilkes county shall appoint one commissioner, and the county of Alexander, when organized, shall appoint one commissioner, who shall have power to employ a competent

(To be continued.)