

THE RALEIGH STAR AND NORTH CAROLINA GAZETTE.

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

[THREE DOLLARS A YEAR—IN ADVANCE]

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No. 10.

LAWS 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 JANUARY, ONE THOUSAND EIGHT HUNDRED AND FORTY SEVEN.

(BY AUTHORITY.)

An Act for the better regulation of the Militia of this State. (Concluded.)

33. recovered by suit on his official bond, in the name of the State, or the use of the presiding officer of the court martial from which process, in the execution of which such constable has been guilty of neglect, may have issued.

Sec. 8. *Be it further enacted*, That if any commanding officer of a company of militia, shall neglect to make return of the amount of fines assessed in his company and account for the same as is required in section thirty four, chapter seventy three, Revised Statutes, he shall forfeit, for every such neglect of duty the sum of ten dollars, without to render to the regimental court martial, a sufficient excuse for such neglect, of which the court shall judge.

Sec. 9. *Be it further enacted*, That the uniform which is at this time prescribed for the officers of the regular army of the United States, shall be, and the same is hereby adopted as the uniform of the commissioned officers of the same rank, in the militia of this State: *Provided*, that this shall not extend to volunteer corps, who are allowed, by law, to select their own uniform.

Sec. 10. *Be it further enacted*, That it shall be the duty of the adjutant general of this State to procure a description of the uniform and accoutrements, now worn by the commissioned officers of the United States regular army, which by this act is adopted as the uniform for officers commissioned of similar grade in the militia; and that he shall have the same, together with all the laws now in force in this State, regulating the militia, published in pamphlet form, and shall also procure McComb's Tactics, and shall furnish to each major general five copies of each work, to every brigadier general five copies of each work, and to each colonel of a regiment a number of copies equal to the number of companies and field officers in each regiment, for distribution among the officers of the militia as the general and colonel may think proper; and for his trouble in attending to this, he shall be allowed for the year one thousand eight hundred and forty seven, and for that year only, the sum of fifty dollars, and shall also be allowed any necessary expense which he may incur in the publication, compilation and printing of such Pamphlets; which several allowances shall be paid out of any monies in the treasury not otherwise appropriated; and that the public treasurer shall be allowed the same in the settlement of his accounts.

Sec. 11. *Be it further enacted*, That there shall be, in each and every year, one muster of each and every battalion, which muster shall be held as near the centre of each battalion district as is possible to find a suitable place for such muster; and that it shall be the duty of every colonel to attend at such battalion muster of any battalion under his command, on the days of drill and the days of review; and drill and instruct the officers and men in their duties; and further, it shall be the duty of the non commissioned officers to attend the drills of officers, as is now required by law; and in the event of any non-commissioned officers failing to attend such drill, he shall be fined for such failure two dollars, unless he furnishes a sufficient excuse to the regimental court martial; and in the event of any colonel failing to discharge the duties herein on him imposed, he shall be fined not less than ten nor more than twenty dollars, without he renders to a court martial to be called by the brigadier general, upon such failure being made known to him by the adjutant, said court to consist of at least five commissioned officers, one of whom shall be of as high rank as colonel, and the others of at least as high rank as captain—a sufficient excuse for such failure of duty.

Sec. 12. *Be it further enacted*, That no commissioned officer in this State shall be deprived of his rank or rights as such, without a regular trial before some court martial detailed for that purpose, in manner as is now prescribed for the trial of officers for other causes.

Sec. 13. *Be it further enacted*, That in all elections of officers held [under] the laws of this State, the polls for such elections shall be held and kept open from eleven o'clock, A. M. (or in the forenoon) until three o'clock P. M. in the afternoon of the day on which said election is held; and that if any election is not held according to this act, upon such being made to appear to the satisfaction of the Governor, he shall be authorized and he is hereby authorized to order another election for officers, when they may have been so improperly elected.

Sec. 14. *Be it further enacted*, That upon the resignation, or removal, of either the field, company officers of any division, brigade or regiment in this State, the said field or company officers shall hand over to their successors in office the copy or copies of military tactics, with which they may have been furnished according to the preceding section; and in case of the death of any such officer while in office, his executor or administrator shall in like manner hand over to the successor of each officer any copy or copies of the military tactics found among the effects of his testator or intestate; and upon failure so to do, the said officer or his executor or administrator, as the case may be, shall forfeit and pay the sum of three dollars, to be collected by the successor in office of any such officer, by warrant, before any justice of the peace, and shall be applied as other militia fines.

[Ratified 18th day of January, 1847.]

An Act in favor of the Cherokee Chief, Junaluske. Whereas the Cherokee Chief Junaluske, who distinguished himself in the service of the United States at the battle of the "Horse-shoe," as commander of a body of Cherokees, as well as on divers other occasions during the last war with Great Britain, has, since his removal west of the Mississippi, returned to this State, and expressed a wish to remain and become a citizen thereof:

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 Junaluske be, and he is hereby declared a citizen of the State of North Carolina, and entitled to all the rights, privileges and immunities consequent thereon.

Sec. 2. *Be it further enacted*, That the Secretary of State be, and he is hereby authorized and directed to convey unto the said Junaluske, in fee simple, the tract of land in Cherokee county, in district 9, tract No. 19, containing three hundred and thirty-seven acres; which said land the said Junaluske shall be empowered to hold and enjoy, without the

power to sell or convey the same, except for the term of two years from time to time: *Provided nevertheless*, that he shall have full power to dispose of the same by devise only.

Sec. 3. *Be it further enacted*, That the Public Treasurer be directed, to pay unto the said Junaluske the sum of one hundred dollars, out of any monies in the treasury not otherwise appropriated.

Sec. 4. *Be it further enacted*, That this act shall be in force from and after its passage.

[Ratified the 2nd day of January, 1847.]

An Act to repeal an act, entitled "an act for the relief of purchasers of lands sold for taxes in the counties of Haywood and Henderson."

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That an act, entitled "an act for the relief of purchasers of lands sold for taxes in the counties of Haywood and Henderson," chapter sixty, ratified the 26th day of January, A. D. 1843, be, and the same is hereby repealed.

[Ratified 18th January, 1847.]

An Act to provide suitable buildings for the comfortable accommodation of deaf mutes and blind persons of this State.

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 suitable buildings for the accommodation of such deaf mutes and blind persons as now are, or may hereafter become, pupils or inmates of the institution established in the city of Raleigh, for their education and maintenance, shall be erected in or near the said city of good and durable materials, according to the plan submitted herewith: *Provided*, the whole cost of said buildings shall not exceed the sum of ten thousand dollars.

Sec. 2. *Be it further enacted*, That the said buildings shall be erected under the control and management of the president and directors of the Literary Board, who are authorized and empowered to contract for said work; but before any contractor or contractors, who may be employed by them, shall be allowed to commence the work, the said board shall require him or them to enter into bond, with good and sufficient security, in the sum of fifteen thousand dollars, conditioned that the said contractor or contractor shall execute the said work in such time as may be prescribed and specified by the said board, and in a substantial and workmanlike manner.

Sec. 3. *Be it further enacted*, That the president and directors of the Literary Board be, and they are hereby authorized, empowered and directed to use, for the execution of said buildings, any unexpended balance of the annual appropriation made at the last session of the General Assembly, for the maintenance and education of deaf mutes and blind persons of the State, as may remain on hand at the expiration of the present and the next fiscal year; and also to apply, for said purpose, the additional sum of five thousand dollars from the literary fund.

Sec. 4. *Be it further enacted*, That the said president and directors of the Literary Board be, and they are hereby authorized, empowered and directed to cause said buildings to be erected on any one of the public lots in or near the city of Raleigh; now owned by the State, which they may select for that purpose, and to take and hold possession of such lot until further provision shall be made by law in relation thereto.

[Ratified 18th January, 1847.]

An Act to amend an act to reduce into one the several acts concerning Pilots and Commissioners of Navigation, "Revised Statutes," chapter 88, section 40.

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 so much of the above recited act as provides that branch pilots, legally authorized by the commissioners of navigation for Edenton, Washington, Newbern, or Ocracoke, shall be entitled to demand and receive of the commander of such vessel as they may have charge of, the following pilotage, viz: for every vessel of sixty tons burthen, from the other side of the bar, at any distance within the limits of the pilot ground, to Beacon Island Road, or Wallace's channel, six dollars; and for all vessels drawing eight feet water and less than twelve, one dollar per foot; and for all vessels drawing twelve feet or upwards, one dollar and twenty five cents per foot, be, and the same is hereby repealed.

Sec. 2. *Be it further enacted*, That all branch pilots, legally authorized by the commissioners of navigation, for the forts of Edenton, Washington, Newbern, or Ocracoke, shall be entitled to demand and receive of the commander of such vessel as they may have charge of, the following pilotage, viz: of sixty tons burthen and not over one hundred and forty tons, the other side of the bar, at any distance within the limits of the pilot ground to Beacon Island Road or Wallace's channel, ten cents for each and every ton burthen, and the further sum of two and a half cents for each and every ton over and above one hundred and forty: *Provided always*, that nothing herein contained, shall be so construed as to compel the commander of any vessel to take a pilot on board such vessel as is not compelled by this act to pay pilotage.

Sec. 3. *And be it further enacted*, That it shall not be lawful for any branch pilot to demand and receive for pilotage, for any vessel over either of the swashes, more than the sum of two dollars as now allowed by law; and the pilotage of any vessel over either of the swashes shall be held, deemed and taken to be the pilotage of such vessel over said swashes, either to or from Beacon Island Road, or Wallace's channel, or over any shoal lying intermediate between either of said swashes and Beacon Island Road, or Wallace's channel.

Sec. 4. *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 repealed.

Sec. 5. *Be it further enacted*, That this act shall be in force from and after the first day of March, A. D. 1847.

[Ratified 18th of January, 1847.]

An Act to repeal in part an act, passed in 1844 and 1845, entitled "an act to prevent frauds in levying executions issued by a single magistrate and to encourage and facilitate the practice of taking security for the forthcoming of property seized under execution, and to amend the same."

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 so much of the above recited act as provides that all sales of personal chattels shall be made within thirty days after the levy, be

and the same is hereby repealed, so far as relates to slaves which may be so levied upon; and that hereafter, when any execution issued by a justice of the peace shall be levied on any slave or slaves, the sale thereof shall take place within sixty days after the said levy, under the same rules, regulations and restrictions as are provided in said act.

[Ratified 18th of January, 1847.]

An Act to prevent rail road companies from obstructing navigable water courses, and for other purposes.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That all rail road companies, which are now, or hereafter may be, in existence in the State of North Carolina, be compelled when erecting a bridge across any navigable water course, for the convenience of the said company, to put up and attach thereto a good and convenient draw by which all vessels navigating such water course may be allowed to pass up and down the said water course.

Sec. 2. *Be it further enacted*, That in case the owner or owners of any lawfully established public toll bridge or ferry shall consider his or their property in the said bridge or ferry injured by the proximity of the said rail road, he or they shall have the same legal redress against the said company as is given to or possessed by other individuals suffering damage or injury from the running of the said rail road.

[Ratified 18th January, 1847.]

An Act to perfect titles to land sold by decrees of Courts of Equity.

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 whenever any land has been sold by decree of the court of equity, and the purchase money has been paid, and no title conveyed to the purchaser, and the clerk and master who made such sale, has died or is out of office, his successor in office shall make and execute a conveyance to such purchaser to the land so sold.

[Ratified 17th January, 1847.]

An Act to amend an act, passed at the last session of the General Assembly, entitled "An Act in favor of Poor Debtors."

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 an act of the General Assembly, passed at the session of 1844 & 1845, entitled "an act in favor of Poor Debtors," shall not be extended to any person or persons, against whom judgment is hereafter obtained and execution awarded, for liability incurred for failure or neglect to work on the public roads, or to muster or to pay his poll tax.

[Ratified 18th January, 1847.]

An Act to amend an act, entitled "an act to amend the Revised Statutes, entitled 'an act concerning last wills and testaments.'"

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That no will in writing made after the ratification of this act, which shall not be sufficient to convey or give personal estate, shall be good as to any real estate therein devised.

[Ratified 16th January, 1847.]

An Act to incorporate the Washington and New Orleans Magnetic Telegraph 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 Samuel F. B. Morse, John J. Haley, William B. Lloyd, and their associates, who have acquired from said Morse, the right to construct and carry on the Electro-Magnetic Telegraph, by him invented and patented, through this State, on the route leading from the city of Washington to the city of New Orleans, are hereby created a corporation and body politic, for the purpose of erecting and maintaining a line of said Telegraph on the route aforesaid, or any other route within this State, and transmitting intelligence by means thereof, under the name and style of the "WASHINGTON AND NEW ORLEANS MAGNETIC TELEGRAPH COMPANY": *Provided*, that a wire shall be extended through the city of Raleigh, and a Telegraph station kept at said city.

Sec. 2. *Be it further enacted*, That the stock of said company shall consist of shares of fifty dollars each, to be issued in such proportions to the original owners of the patent right, and to those who have heretofore or may hereafter furnish funds for the construction and improvement of said line of Telegraph, as the said owners and subscribers have heretofore or may hereafter agree upon: *Provided*, that when the basis on which such stock shall be issued has been once fixed, it shall not thereafter be altered: *Provided further*, that funds to be raised for the construction of said Telegraph, putting the same in operation, and from time to time adding to and improving it, shall be only sufficient for those purposes, and shall not be invested or employed for any other purpose whatever.

Sec. 3. *Be it further enacted*, That the said corporation shall have the power to build or purchase any connecting or side lines in this State, having acquired the right to do so from the owners of Morse's patent, and may enlarge their capital for that purpose.

Sec. 4. *Be it further enacted*, That the persons named in the first section of this act, shall have power to call a meeting of the corporate body, hereby created, giving three weeks notice of the time and place of meeting, in at least one paper published in the cities of Washington, Richmond, Va. Raleigh, N. C. Charleston, S. C. Mobile, Ala. and New Orleans, for the purpose of choosing a president, secretary, and treasurer, together with a suitable number of directors, as may be determined on by stockholders for the management of their affairs.

Sec. 5. The president, directors, secretary, and treasurer, shall hold their offices for one year, and until their successors shall be elected, and shall exercise such powers pertaining to the building and management of said Telegraph, not incompatible with the constitution and laws of this State and of the United States, as may be authorized by the by-laws of said corporation.

Sec. 6. At every election, each share shall entitle its holder to one vote, except that no stockholder shall be entitled to give more than one-sixth of the entire vote to which the stockholders are entitled: and absent stockholders may vote by agents or proxies producing written authority: in case of a tie, the election shall be decided by lot.

Sec. 7. The Washington and New Orleans Magnetic Telegraph company, hereby incorporated, shall have power to sue and be sued, complain and defend, in any court of law and equity having competent jurisdiction, to make and use a common seal, and the same to alter at pleasure; to hold and purchase such real and personal estate as the lawful purposes of the corporation may require, and the same to sell and convey when no longer so required; to appoint such officers and agents as may be necessary, to manage the business of the corporation, and allow them a suitable compensation; and to make by-laws not inconsistent with any existing law, for the management of its property, the regulation of its affairs, and for the transfer of its stock.

Sec. 8. The corporation hereby created, shall have power to contract with other persons or bodies politic, to connect their lines of Telegraph with lines out of the State.

Sec. 9. The Washington and New Orleans Magnetic Telegraph company shall have power to set up their fixtures along and across any of the high roads and rail roads belonging or which may hereafter belong to the State, or waters of this State, without its being deemed a public nuisance, or subject to be abated by any private persons—the said fixtures to be so placed as not to interfere with the common use of such roads and waters, or with the convenience of any land owner more than is unavoidable; but said corporation shall be responsible for any damages which any person or corporation shall sustain by the erection, continuance and use of such fixtures, and in any action brought for the recovery thereof, by the owner or possessor of any lands, the damages to be awarded, may at the election of said corporation, include the damage of allowing the said fixtures permanently to continue, on payment of which damages the right of the corporation to continue such fixtures, shall be confirmed, as if granted by the parties to the suit. *Provided*, That no person, or body politic, shall be entitled to sue for and recover damages as aforesaid, until the said corporation, after due notice, shall have failed or refused to remove, in reasonable time, the fixtures complained of; and every person, who shall destroy or commit a trespass upon the fixtures of said corporation, erected in pursuance of the authority hereby given, actually interrupting, or with intent to interrupt, the operations of the Telegraph, shall pay to the said corporation five hundred dollars for such offence, and shall be further liable for all damages which the said corporation may suffer in repairing the injury and in the interruption of their business, to be recovered in an action of trespass, and shall be further liable to indictment, and on conviction be fined or imprisoned at the discretion of the court; and if any person incurring the penalty aforesaid, shall, through insolvency or other cause, be unable, or shall fail to pay the penalty and damages aforesaid, and shall, a second time, destroy or commit a trespass upon said fixtures, he shall be subject to imprisonment not less than one month nor over six months in the county jail, on conviction thereof before any court of competent jurisdiction.

Sec. 10. The said corporation shall be bound, on application of any of the officers of this State, or of the United States, acting in the event of any war, insurrection, riot, or other civil commotion or resistance of public authority, or in the prevention of punishment of crime, or the arrest of persons charged or suspected thereof, to give to the communications of such officers immediate dispatch; and if any officer, clerk or operator of said company, shall refuse or willfully omit to transmit such communications, or shall designedly alter, or falsify the same, for any purpose whatever, he shall be subject to fine and imprisonment, in proportion to the aggravation of the offence, upon conviction thereof before any court of competent jurisdiction. For transmitting such communications, the company shall charge no higher price than for private communications of the same length.

Sec. 11. Should the holders of Morse's patent, or their assignees, acting in pursuance of any agreement that has been or may be entered into between them and the subscribers of funds to construct said Telegraph, dispose of said patent to the government of the United States, or should the holders of three quarters of said stock in said corporation, agree to sell all their property in said Telegraph, and the fixtures thereof, to the United States, then, upon the payment of the stipulated consideration to the president and directors of the Magnetic Telegraph company, they shall forthwith distribute the same among the stockholders, and by resolution proceed to dissolve, which resolution shall be certified by the president and secretary thereof to the secretary of State.

Sec. 12. This act shall take effect immediately, and shall be deemed a public act.

[Ratified 18th day of January, 1847.]

An Act concerning the Survey of the Coast of the State of North Carolina.

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 for any person or persons employed under and by virtue of an act of the Congress of the United States, passed the 19th day of February, A. D. 1807, and any supplements thereto, at any time hereafter, to enter upon any lands within this State, for the purpose of exploring, surveying, triangulating, or levelling, or doing any other matter or thing which may be necessary to effect the objects of said act and its supplements, and erect any works, stations, buildings or appendages requisite for that purpose, doing no unnecessary injury to private or other property.

Sec. 2. *Be it further enacted*, That in case of any entry being made upon any lands as aforesaid, for the purposes aforesaid in this act, the person so authorized to make the entry and do other acts provided for in this act, may be tendered to the party injured a reasonable compensation for any injury or damage done to or upon lands so entered upon; and if the parties cannot agree as to the amount of damages, then, either party may call upon any justice of the peace in the county in which said land lies, who shall summon three disinterested freeholders of the county, who being duly sworn by some justice, or other person authorized to administer an oath, to do justice between the parties, shall proceed to hear the testimony, or upon their own view of the lands, upon the matters in dispute; and they, or a majority of them, shall assess the damages sustained by the owner or possessor of the lands so entered upon; and in the event of either party being dissatisfied with the assessment made by said freeholders, the party so dissatisfied, may pray an appeal to the next county court of the county in which the land so

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