

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."

[THREE DOLLARS A YEAR—IN ADVANCE]

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No. 11

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 JANUARY, ONE THOUSAND EIGHT HUNDRED AND FORTY SEVEN.
(BY AUTHORITY.)

An Act for the better regulation of the Militia of this State.

An Act to amend the Revised Statute, entitled "Deeds and Conveyances."

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 registry or duly certified copy of any deed or conveyance of land, or power of attorney for conveying the same, registered or recorded, as by the said statute is directed, shall and may be given in evidence in any court of record, and shall be held to be full and sufficient evidence of such deed, conveyance, or power of attorney, although the party offering the same shall be entitled to the possession of the original, and shall not account for the non production thereof, unless by a rule or order of the court, made upon affidavit suggesting some material variance from the original in such registry, or other sufficient grounds, such party shall have been previously required to produce the original; in which case the same shall be produced, or its absence duly accounted for according to the course and practice of the court.

Sec. 2. Be it further enacted, That according to the true intent and meaning of the sixteenth section of the said statute, each and every officer in the said section mentioned, and thereby authorized to certify the execution of any power of attorney, hath power and is authorized to take and certify the proof thereof by a subscribing witness, or the acknowledgment thereof by the party or parties thereto; and all powers of attorney which, upon such certificate of proof or acknowledgment, shall have been ordered, or shall hereafter be ordered to be registered, and shall have been, or shall be registered accordingly, shall be held and taken to be duly proved and registered within the true intent and meaning of the said sixteenth section; and duly certified copies of the registry or record of all powers of attorney, registered according to the said sixteenth section, shall and may be given in evidence in any court of record in this State, in manner and under the circumstances in the first section of this act prescribed: *Provided always*, and it is hereby declared, that nothing in the said sixteenth section contained does extend, or shall be held or taken to extend, to any power of attorney executed or attested, or which shall be executed or attested in the State, by a person or persons residing in the same.

Sec. 3. Be it further enacted, That all powers of attorney of the description referred to in the said sixteenth section, executed or attested by a person or persons residing in this State, may be proved or acknowledged before any Judge of the Supreme or Superior Court, or in the Court of Pleas and Quarter Sessions of the county in which the attorney or attorneys therein named, or the person or persons executing the same, shall reside, and may be thereupon ordered to be registered.

Sec. 4. And be it further enacted, That this act shall be in force from and after its ratification.

[Ratified 12th January, 1847.]

An Act to amend an act, passed in 1844-5, entitled "An Act relative to Notaries."

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 one dollar 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 non acceptance and non-payment of any order, note, bond, or bill, or any other account whatever: *Provided however*, that nothing in this act contained shall extend to notarial protests concerning vessels or their cargoes.

Sec. 2. 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.

Sec. 3. Be it further enacted, That this act shall be in force from and after its ratification.

[Ratified 14th of January, 1847.]

An Act to protect Houses and inclosures from wilful injury.

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 or persons shall unlawfully and wilfully burn any uninhabited house, out house or other buildings, or shall unlawfully and wilfully demolish, pull down, deface, or by other ways or means destroy, injure or damage any dwelling house, or any uninhabited house, out house, or other building, or shall unlawfully or wilfully burn, destroy, or remove any fence, wall, or other inclosure or any part thereof, surrounding or about any yard, garden, or cultivated grounds, he, she, or they shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by fine or imprisonment, or both, at the discretion of the court in which such conviction shall be had.

Sec. 2. Be it further enacted, That this act shall be in force from and after the first day of March next.

[Ratified 14th January, 1847.]

An Act to amend an act of the General Assembly of North Carolina, passed at its session of 1827, entitled "An Act to prevent the obstruction of fish passing up the Roanoke and Cashie Rivers and their waters," chapter 54th.

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 said act as related to the Roanoke and Cashie Rivers, be, and the same is hereby repealed.

Sec. 2. Be it further enacted, That hereafter it shall not be lawful for any person to lay out and haul a seine in the waters of the Roanoke and Cashie Rivers, for the purpose of taking fish, after sunset on Saturday until after sunrise on Monday, from the first day of March until the twenty-fifth day of May, in each and every year.

Sec. 3. Be it further enacted, That any person who shall violate the provisions of this act shall forfeit and pay, for each and every offence, the sum of one hundred dollars, to be recovered in any court having cognizance thereof: one half to the person who shall sue for the same, and the other half to the wardens of the poor for the county.

[Ratified 16th day of January, 1847.]

An Act to increase the Public Revenue.

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 tax of one per centum shall be levied and collected upon the value of all real estate decedent or devised to collateral kindred or others than lineal descendants, except the widows of the decedent, where said estate is of the value of three hundred dollars and upwards.

Sec. 2. Be it further enacted, That a tax of one per centum shall be levied and collected upon the value of all personal property or goods, bequeathed to strangers or collateral kindred, or which is distributable to or amongst next of kin of any intestate where such next of kin and collateral relation of such intestate, and where the said legacy or property distributable shall be of the value of two hundred dollars and upwards.

Sec. 3. Be it further enacted, That all deeds of gift, transfers, alienations or conveyances of any estate, real or personal, made with intent to defeat the purpose of this act, so far as relates to the said tax of one per centum, shall be, and the same are hereby declared to be void and of none effect.

Sec. 4. Be it further enacted, That the executor or executors, administrator or administrators, of each and every person who shall have died, leaving no lineal descendants, on his final settlement, shall account for and pay to the clerk of the court of pleas and quarter sessions of his, her or their county, the amount which the estate of his, her or their testator or intestate, shall be liable to pay by way of tax to the State, under the provisions of this act; and in case of failure, shall be liable on his bond for the amount thereof, in a suit to be brought thereon, in the name of the State of North Carolina to the use of the Public Treasurer, for the time being; and further liable to be sued at law or in equity, for the said taxes in any other manner, as executors or administrators are now liable to be sued by creditors of their testators or intestates, distributees or legatees, in the name of the State; which suit or suits it shall be the duty of the county attorney, or the solicitor for the district, to institute and prosecute at the cost of the State, where the same shall not be recovered from the defendant or defendants.

Sec. 5. Be it further enacted, That it shall be the duty of the several clerks of the county courts, aforesaid, to keep a record of all monies recovered by them under the provision of this act, and transmit it to the Comptroller of the State a true and correct list thereof, each year, at the time they return the statements or list of other taxables or taxable property; and on failure to make such returns, or to pay the same over to the sheriff as herein provided, shall be liable, on their official bonds, for the several amounts received by them, in a suit or suits, to be brought in the manner and form prescribed in the preceding section of this act.

Sec. 6. Be it further enacted, That it shall be the duty of the said clerks to pay over to the sheriffs of their counties respectively, the several amounts which they shall receive, under the provisions of this act, and it shall be the duty of the several sheriffs to receive, collect, and account for the same to the Public Treasurer, in like manner, and under the same liabilities, forfeitures, and penalties, in case of failure, as now prescribed by law for collecting and accounting for the other public revenue.

Sec. 7. Be it further enacted, That the tax now imposed by law on attorney's licenses, shall be paid to the clerk of the supreme court at the time such license is granted; and the judges of the supreme court, on granting such licenses, shall deliver them to one of the clerks of the supreme court, either at Raleigh or Morganton, which clerk shall hand over the said licenses to the respective applicants, upon the payment of the tax aforesaid, and not otherwise; which said taxes shall be paid over by the clerks aforesaid to the Public Treasurer, within two months from the time of their receipt; and on failure to do so, the said clerks shall be liable to the State, on their official bonds, for the amount they received.

Sec. 8. Be it further enacted, That all other laws and clauses of laws, coming within the meaning and purview of the foregoing section of this act, be, and the same are hereby repealed.

[Ratified 18th day of January, 1847.]

An Act to amend the 10th section of chapter 102 of Revised Statutes.

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 provisions of the tenth section of the Revised Statutes, chapter 102, be, and the same is hereby so amended as to extend to each and every person who may peddle in any county in this State, and not on a navigable stream, any of the articles in said section specified (they not being of the growth or manufacture of this State) and who, travelling on foot or horseback, may carry the same in a package or sack.

Sec. 2. Be it further enacted, That each and every person who shall peddle in the manner above described, shall pay to the sheriff of each and every county in which he shall so peddle said articles, the sum of twenty dollars, for every package or sack by him so carried or caused to be carried; which tax shall be accounted for by the sheriff in like manner as other public State taxes; and upon paying such tax and obtaining a receipt therefor, such person shall be authorized and permitted to peddle such articles as in said section are specified.

[Ratified 18th January, 1847.]

An Act to tax the vendors of foreign made riding Vehicles.

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 each and every person or persons who shall offer for sale, or peddle in any county in this State, carriages, barouches, buggies, or other riding vehicles, which shall not be of the manufacture of this State, shall pay to the sheriff of each and every county, in which he, she or they shall so sell or offer for sale any of the articles aforesaid, the sum of thirty dollars; and upon receiving the receipt of the sheriff, he or they shall be permitted to sell or peddle for one year only: *Provided*, that nothing in this act shall be so construed as to prohibit any person or persons from selling or offering for sale any such carriage, buggy or other vehicle purchased for his, her or their own use.

Sec. 2. Be it further enacted, That any person or persons who shall keep in this State a depository, or establishment for selling carriages, barouches, and other vehicles of the before mentioned foreign manufacture, he or they shall pay to the sheriff of the county in which such depository is located, one hundred dollars, and obtain from the sheriff a certificate, which certificate shall authorize him or them to sell or peddle in the county in which the depository is located for one year.

Sec. 3. Be it further enacted, That the respective sheriff shall account for the tax received in the same manner as they are now required by law to account for State taxes.

Sec. 4. Be it further enacted, That nothing in this act shall be so construed as to authorize two or more persons, under the pretence of being partners in trade, to sell, offer for sale, or peddle as aforesaid, under the same license.

Sec. 5. Be it further enacted, That any person violating the provisions of this act, shall forfeit the sum of one hundred dollars, to be recovered before any court having competent jurisdiction, one half to the use of the informer, and the other half to the State, to be accounted for by the sheriff in his settlement with the Public Treasurer.

[Ratified 19th of January 1847.]

An Act to incorporate the North and South Carolina Rail Road 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 be lawful to open books in the city of Raleigh, under the direction of William Boylan, John H. Bryan, Charles Manly, Alfred Jones, Weston R. Gales, George W. Mordecai, Duncan K. McRae, or any three of them; and at Warrenton, under the direction of N. T. Green, George D. Baskerville, Dr. Peter Hawkins, Peter R. Davis, William Plummer and Dr. Charles Skinner, or any three of them; and at Oxford, in Granville county, under the direction of James Cooper, Russel T. Kingsbury, Lunsford A. Paschall, John S. Eaton, George Kittrell and Rhodes N. Herndon, or any three of them; and in the county of Franklin, under the direction of Allen C. Perry, Dr. Willie Perry, Thomas Person, William Branch, John D. Hawkins and Richard F. Yarbrough, or any three of them; and in Anson county, under the direction of Hampton B. Hammond, Walter R. Leak, William B. McCorkle, Alexander Little, Absalom Myers, and D. D. Daniel, or any three of them; and in Richmond county, under the direction of Walter F. Leak, John C. McLaurin, Alexander C. McKinnon, Daniel McNeill, William G. Webb, and James D. Pamber ton, or any three of them; in Robeson county, under the direction of Dr. Neill McNair, Peter McEachen, Malcom Purcell, Alexander H. Currie, Alexander McDonald, Archibald McEachen, and John Gilchrist, or any three of them; in the county of Moore, under the direction of John B. Kelly, John Morrison, Samuel C. Bruce, Samuel J. Person, Willis D. Dowd, Alexander C. Curry and Charles H. Dowd, or any three of them; and in the county of Cumberland, under the direction of John Huske, Charles T. Haigh, C. P. Mallett, John H. Hall, E. L. Winslow, George McNeill, Archibald S. McNeill, James Kyle, John C. Williams, Alexander Elliott, and John McLean, or any three of them; and at such other places, and under the direction of such other persons as any three of the commissioners hereinbefore named to superintend the receiving of subscriptions in the county of Cumberland, shall direct, for the purpose of receiving subscriptions to an amount not exceeding one million two hundred thousand dollars, in shares of one hundred dollars each, for the purpose of effecting a communication by rail road, from some point at or near the termination of the Raleigh and Gaston Rail Road, in the city of Raleigh, via Fayetteville, to some point on the South Carolina line, which will connect with the rail road from Camden, in South Carolina, to the North Carolina line.

Sec. 2. Be it further enacted, That the times and places for receiving subscriptions shall be advertised, in one or more newspapers published in the city of Raleigh and town of Fayetteville; and the books for receiving the same, shall not be closed in less than thirty days; and if it shall appear that more than twelve thousand five hundred shares of the capital stock aforesaid, shall have been subscribed for, within the said thirty days, it shall be the duty of the said commissioners at Fayetteville, or any five of them, to reduce the number of shares subscribed for, among the subscribers, in fair and equal proportions to the amount of stock subscribed for respectively by each, until the whole amount of shares shall be reduced to twelve thousand five hundred.

Sec. 3. Be it further enacted, That when two thousand shares shall be subscribed for, in manner aforesaid, the subscribers, their executors, administrators, or assigns, shall be, and they are hereby declared to be incorporated into a company, by the name and style of the "North and South Carolina Rail Road Company," and by that name shall be capable in law of purchasing, holding, selling, leasing and conveying, estates, real and personal and mixed, so far as shall be necessary for the purposes hereinafter mentioned and no further; and shall have perpetual succession, and by said corporate name, may sue and be sued, and may have and use a common seal, which they shall have power to alter, and renew at pleasure; and shall have and enjoy, and may exercise all the powers, rights, and privileges, which other corporate bodies may lawfully do, for the purposes mentioned in this act; and may make all such by-laws, rules, and regulations, not inconsistent with the laws of this State or of the United States, as shall be necessary for the well ordering and conducting the affairs of said company.

Sec. 4. Be it further enacted, Upon any subscription of stock as aforesaid, there shall be paid at the time of subscribing, to the said commissioners or their agents, appointed to receive such subscriptions, the sum of two dollars on every share subscribed; and the residue thereof shall be paid in such instalments, and at such times as may be required by the president and directors of said company.

Sec. 5. Be it further enacted, That the said commissioners, or their agents, shall forthwith, after the first election of president and directors of the company, pay over to the said president and directors all monies received by them; and on failure thereof, the said president and directors may recover the amount due from them, or from any one or more of them, by motion, on ten days previous notice, in the court of pleas and quarter sessions of the superior court of law, of any county wherein such commissioner or commissioners, their executors or administrators may reside, or by warrant before a justice of the peace of said county.

Sec. 6. Be it further enacted, That when four hundred thousand dollars or more of the stock shall have been subscribed, public notice of that event shall be given by any three or more of the said commissioners at Fayetteville, who shall have power at the same time to call a general meeting of the subscribers, at such convenient place and time, as they shall name in said notice.

Sec. 7. Be it further enacted, That to constitute any such meeting, a number of persons entitled to the majority of all the votes which could be given upon all the shares subscribed, shall be present either in person or by proxy; and if a sufficient number to constitute a meeting do not attend on that day, those who attend shall have the power to adjourn from time to time, until a meeting shall be formed.

Sec. 8. Be it further enacted, That the subscribers at their general meeting before directed, and the proprietors of stock at every annual meeting thereafter, shall elect a president and five directors, who shall continue in office, unless sooner removed, until the next annual meeting after their election and until their successors shall be elected, but the said president and directors, or any of them, may at any time be removed, and the vacancy thereby occasioned, be filled by a majority of the votes given at any general meeting. The president with any two or more of the directors, or in the event of the sickness, absence or disability of the president, any three or more of the directors, who shall appoint one of their own body president, pro tem. shall

constitute a board for the transaction of business; in case of vacancy in the office of president or any director, happening from death, resignation, removal or disability, such vacancy may be supplied by the appointment of the board, until the next annual meeting.

Sec. 9. Be it further enacted, That the president and directors of said company shall be, and they are hereby invested with all the rights and powers necessary for the construction, repairs, and maintaining of a rail road, to be located as aforesaid, with as many sets of tracts, as they, or a majority of them, may deem necessary and may cause to be made; and also to make and construct all works whatsoever which may be necessary and expedient in order to the proper completion of the said rail road.

Sec. 10. Be it further enacted, That the said president and directors shall have power to make contracts with any person or persons on behalf of the company, for making the said rail road, and performing all other works respecting the same, which they shall judge necessary and proper; and to require from the subscribers from time to time, such advances of money on their respective shares, as the wants of the company may demand, until the whole of their subscriptions shall be advanced; to call, on any emergency, a general meeting of the subscribers, giving one month's notice thereof in one of the newspapers printed in the town of Fayetteville; to appoint a treasurer, clerk and such other officers as they may require; and to transact all the business of the company during the intervals between the general meetings of the stockholders.

Sec. 11. Be it further enacted, That if any stockholder shall fail to pay the sum required of him by the president and directors, or by a majority of them, within one month after the same shall have been advertised in one of the newspapers published in the town of Fayetteville, it shall and may be lawful for the president and directors, or a majority of them, to sell at public auction, and to convey to the purchaser, the share or shares of such stockholders, so failing or refusing, giving one month's previous notice of the time and place of sale, in manner aforesaid; and after retaining the sum due and all charges of the sale, out of the proceeds thereof, to pay the surplus over to the former owner, or to his legal representative; and if the said sale shall not produce the sum required to be advanced with the incidental charges attending the sale, then the president and directors may recover the balance of the original proprietor, or his assignee, or the executor or administrator, or either of them, by suit in any court of record having jurisdiction thereof, or by warrant before a justice of the peace of the county of which he is a resident; and any purchaser of the stock of the company, under the sale by the president and directors, shall be subject to the same rules and regulations as the original proprietors.

Sec. 12. Be it further enacted, That if the capital stock of the company hereby incorporated, shall be found insufficient for the purpose of this act, it shall, and may be lawful for the president and directors of the said company, or a majority of them, from time to time, to increase the said capital stock to an amount not exceeding two millions of dollars, by the addition of as many shares as they may deem necessary, first giving to the individual stockholders, for the time being, or their legal representatives, the option of taking such additional shares in proportion to the amount of stock respectively held by them, and opening books in the town of Fayetteville, and such other places as the president and directors may think proper, for any balance of the capital stock created, which may not be taken by the stockholders for the time being or in their behalf; and the subscribers for such additional shares of the capital stock, in the said company, are hereby declared to be thenceforward incorporated into the said company, with all the privileges and advantages, and subject to all the liabilities of the original stockholders.

Sec. 13. Be it further enacted, That the president and directors, or a majority of them, shall have power to borrow money for the object of this act, to issue certificates or other evidences of such loans, and to make the same convertible into the stock of the company, at the pleasure of the holders: *Provided*, that the capital shall not thereby be increased to an amount exceeding two millions of dollars, and to pledge the property of the company for the payment of the same with interest: *Provided*, that no certificate of loan, convertible into stock, or creating any lien or mortgage on the property of the company, shall be issued by the president and directors, unless the expediency of making a loan on such terms, and of issuing such certificates, shall have first been determined on at a general meeting of the stockholders, by two thirds of the votes, which could legally be given in favor of the same.

Sec. 14. Be it further enacted, That the said president and directors, their officers, agents or servants, shall have full power and authority to enter upon all lands and tenements, through which they may desire to conduct their rail road, and to lay out the same according to their pleasure, so that the dwelling house, yard, garden, or curtilage of no person be invaded without his consent; and that they shall have power to enter in and lay out such contiguous lands as they may desire to occupy as sites for depots, toll houses, ware houses, engine houses, sheds, work shops, water stations, and other buildings for the necessary accommodation of their officers, agents, and servants, their horses, mules and other cattle, and for the protection of property entrusted to their care: *Provided*, that the land so laid out on the line of the rail road, shall not exceed (except at deep cuts and fillings) eighty feet in width, and that the adjoining land for the sites of buildings (unless the president and directors can agree with the owner or owners for the purchase of the same, shall not exceed one and a half acre in any one parcel; if the president and directors cannot agree with the owner or owners of the lands, so entered on and laid out by them, as to the terms of purchase, it shall be lawful for them to apply to the court of pleas and quarter sessions of the county in which such land or the greater part of it may lie; 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 purpose 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 the guardian, if the owner be an infant or non compos mentis, if such owner or guardian can be found, within the county, or if he cannot be so found, then such 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