

LAWS OF THE STATE OF NORTH CAROLINA.

PASSED BY THE GENERAL ASSEMBLY, AT THEIR SESSION, WHICH COMMENCED ON MONDAY, THE TWENTIETH OF NOVEMBER, ONE THOUSAND, EIGHT HUNDRED AND FORTY EIGHT, AND ENDED ON THE TWENTY-NINTH OF JANUARY, ONE THOUSAND, EIGHT HUNDRED AND FORTY-NINE.

[BY AUTHORITY.]

CHAPTER VI.

An act to amend an act, passed at the Session of the Legislature of this State, of 1846-7, entitled "An Act authorizing the Governor to establish a depot of arms at Newbern."

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 sum of one hundred and fifty dollars, and no more, shall be allowed and charged by the keeper of public arms at the depot in Newbern in full compensation for rent of suitable buildings for the deposit and safe keeping of all the public arms there placed or ordered, as well as for the personal services of the said keeper in taking care of the same.

Sec. 2. And be it further enacted, That all laws and clauses of laws contrary or repugnant to this act, be and the same are hereby repealed.

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

[Ratified 29th day of January, 1849.]

CHAPTER VII.

An Act to amend the 10th Chapter of the Revised Statutes, relating to bail.

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 and requirements of the fourth section of the tenth Chapter of the Revised Statutes, relating to bail in civil cases, shall be extended to bail in State prosecutions, allowing them, at any time to surrender the principal in discharge of themselves; Provided, that no surrender of any principal, after the forfeiture of the recognizance, shall have the effect to discharge the bail, except on sufficient cause to be shown to, and adjudged of, by the court; and on such terms as the court may impose as heretofore practised.

[Ratified 29th day of January, 1849.]

CHAPTER VIII.

An Act to establish the Bank of Fayetteville.

- SECTION 1. Limits capital to \$800,000, in shares of 50 Dollars each, and provides for opening books for subscriptions. 2. Stipulates the time and manner of paying shares. 3. When two thousand shares are subscribed, and 25,000 dollars paid, the bank may go into operation, with corporate powers. 4. Provides for meeting of subscribers and election of nine directors. 5. Prescribes rules and regulations as articles of their constitution. 6. Provides that notes of said bank not paid when demanded, shall draw 12 per cent interest from the time of said demand. 7. Makes individual stockholders liable to double the amount of their stock. 8. Banks may be kept open. 9. Embezzlement and fraud made felony. 10. Prescribes penalties for forgery. 11. States to receive and a half cents on each share of stock. 12 and 13 provide for dividends and annual report to Legislature. 14. Exalts statement subjects the offender to indictment. 15. Provides for proceedings on violation of charter. 16. Excess of subscription to be reduced. 17. Provides for branches.

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 bank shall be established in the town of Fayetteville, the capital stock of which shall not exceed eight hundred thousand dollars, divided into shares of fifty dollars each; and that for the purpose of receiving subscription for said stock, books shall be opened on the first day of February, one thousand, eight hundred and forty-nine, and remain open for the space of sixty days, at Fayetteville, under the superintendence of the following persons, or a majority of them, viz. James Kyle, Henry Silly, J. D. Stow, James Martin, and J. T. Gilmore; and at such other places and under the superintendence of such persons, as said commissioners may direct.

Sec. 2. Be it further enacted, That one-tenth of such shares shall be paid in gold or silver, or their equivalent, to the commissioners above named, at the time of subscribing; that another tenth shall be paid within thirty days thereafter; that another tenth shall be paid within sixty days; that another tenth shall be paid within ninety days; that another tenth shall be paid within ninety days; that another tenth shall be paid within ninety days; and that the remainder shall be paid as the President and Directors hereinafter provided to be elected may direct; and if any subscriber shall fail to pay any instalment at the time stipulated, he shall pay interest thereon at the rate of six per cent. per annum, and his stock shall be forfeited, and may be sold by the bank, and the proceeds applied to the payment of the aforesaid deficient instalment; and he shall be held responsible for the same at the option of the bank; and the balance, if any, of such sale, to be paid over to the said subscriber; Provided, that no dividend shall be declared until the whole amount of stock subscribed shall be paid in gold or silver, or their equivalent.

Sec. 3. Be it further enacted, That when two thousand shares are subscribed, and the sum of twenty five thousand dollars is actually paid to the commissioners, the subscribers to the said bank, their successors and assigns shall be, and they are hereby created a body politic in law and in fact, by the name and style of "The Bank of Fayetteville;" and shall so continue until the first day of January, one thousand, eight hundred and seventy-five; and by the name and style aforesaid they shall be, and they are hereby made able and capable in law, to have, purchase, receive, possess,

enjoy and retain to themselves and successors, land, tenements, rents, hereditaments, goods, chattels and effects; and the same to grant, devise alien and dispose of; to sue and be sued, implead and be impleaded, answer and be answered, defend and be defended in courts of record, or any other place whatsoever; and also to make, have and use a common seal, and the same to break, alter or renew at their pleasure; and also to obtain, establish and put in execution such by-laws, ordinances and regulations as shall seem necessary and convenient for the government of said corporation; and for the making whereof general meetings of the stockholders may be called in the manner hereafter specified; and, generally, to do and execute all acts, matters and things which a corporation and body politic in law may or can lawfully execute; and be subject to the rules, regulations, restrictions and provisions hereafter prescribed and declared.

Sec. 4. Be it further enacted, That as soon as two thousand shares shall be taken in the stock of said bank, and twenty five thousand dollars paid to the commissioners who keep the books, notice shall be given in the Gazette published at Fayetteville; and a meeting of the subscribers, to be held in ten days at least after the date of the notice, shall be called. If, at this meeting, those, or their agents, who have a majority of votes according to the rates hereafter described, be present, (if not, another meeting shall be called) they shall proceed to the election of nine directors, who shall take charge of the books and money in the hands of the commissioners, and immediately pursue the usual means to put the bank in operation. The said directors shall remain in office until the first Monday in May, one thousand, eight hundred and fifty, or until their successors shall be appointed; and on the first Monday in May in each year, or at any time thereafter, meetings of the stockholders shall be held, in the town of Fayetteville, for the purpose of electing directors, inquiring into the affairs of the institution, and making such regulations as may be deemed fit and necessary.

Sec. 5. Be it further enacted, That the following rules, regulations and provisions, shall form and be the fundamental articles of the constitution of the corporation. A meeting of the stockholders cannot be held, unless those who have a majority of the whole number of votes be present, and every act shall require the sanction of a majority of the votes which may be present; every stockholder holding one share and not more than two, shall be entitled to one vote; for every two shares above two and not exceeding ten, one vote; for every three shares above ten, not exceeding one hundred, one vote; and for every five shares above one hundred, one vote. After the first meeting, no share or shares shall confer a right of voting, which shall not have been held three calendar months previous to the day of voting; stockholders may vote at general meetings and elections by proxy, the proxy being himself a stockholder. No President, Cashier, agent or clerk of the principal bank, its offices and agencies, shall be permitted to vote as proxy for another. None but a stockholder who is a citizen of the State shall be eligible as a director; and the directors when appointed shall choose one of their number (which shall ways be nine) to be President of the bank, and shall manage the institution as shall seem best to them, unless otherwise directed by the stockholders; but compensation to the President and directors shall be granted at the pleasure of the stockholders. Not less than three directors, of whom the President shall always be one, shall constitute a board for the transaction of business, except in case of absence or sickness of the President, when he may by writing nominate any other director to supply his place; a number of stockholders, not less than ten, who together shall be the owners of two thousand shares or upwards, shall have power at any time to call a general meeting of the stockholders for purposes relative to the institution, giving at least twenty days notice, in a public gazette, and specifying the object or objects of such meeting. The directors shall annually elect such officers as may be deemed necessary, to perform the business of the bank, and may remove them or either of them at pleasure. Those officers shall be required to give bonds, with two or more sureties, in sums not less than ten thousand dollars, with a condition for good behavior and faithful performance of duty. The Cashier shall keep a book to contain the proceedings of the board of directors, the names of those present, the date and day of each meeting, and shall record the yeas and nays on any question, when asked for by a director. This book shall be evidence in courts of justice, against said bank; and on entering on the discharge of his duty, the Cashier shall take the following oath or affirmation before some Justice of the Peace, by whom it shall be deposited in the office of the Clerk of the County Court of Cumberland, viz: "I, A. B., do solemnly swear (or affirm) as the case may be) to keep a just and true record, without alteration in, or erasure of, the transactions of the board of directors of the Bank of Fayetteville, in a book to be kept by me for that purpose."

The said corporation shall purchase and hold only such lands, tenements, rents and hereditaments as shall be required for the convenient transaction of its business, or shall have been bona fide mortgaged to it by way of security, or conveyed to it in satisfaction of debts previously contracted in the course of its dealings, or purchased at sale upon judgments, which shall have been obtained for such debts. The said corporation shall neither directly nor indirectly trade in any thing except bills of exchange, promissory notes, and bonds expressing on the face of them to be negotiable and payable at said bank, gold or silver bullion, or in the sale of goods really and truly pledged for money lent and not redeemed in due time; or in goods which shall be the product of its lands, mint certificates, and the public debts of the United States, provided, the investment in such stock shall not exceed one half of the capital stock of this bank. Neither shall the said corporation take more than at a rate of six per cent. per annum, for or upon its loans and discounts, which interest may be taken in advance at the time of discount. The total amount of the debts which said corporation shall at one time owe, shall not exceed twice the amount of the stock actually paid in over and above the sum then actually deposited in the bank for safe keeping. If a vacancy, in the directorship shall occur, by death, resignation or otherwise, the remaining directors shall fill such vacancy until the succeeding annual meeting of the stockholders. The stock of the said corporation shall be assignable and transferable, according to the rules which shall be instituted in that behalf by the laws and ordinances of the same. The officer at the head of the Treasury department of the State shall be furnished once in six months, with a statement of the amount of capital stock of said corporation, and

the debts due the same, of the moneys deposited therein, of the notes in circulation, and of the cash in hand; and shall have a right to inspect such general accounts in the books of the bank as shall relate to the said statement. Provided, that this shall not be construed to be a right of inspecting the accounts of any private individual with the bank, except of the directors. The bills obligatory and of credit, under the seal of said corporation, which shall be made to any person or persons, shall be assignable by endorsement thereon, under the hand or hands of such person or persons, and of his, her or their assignee or assignees, and so as absolutely to transfer and vest, the property therein in each and every assignee or assignees successively, and to enable such assignee or assignees to bring and maintain an action thereupon in his, her or their name or names; and bills or notes which may be issued by order of said corporation, signed by the President and countersigned by the cashier, promising the payment of money to any person or persons, his, her or their order, or to bearer, though not under the seal of said corporation, shall be binding and obligatory on the same, in the like manner and with the like force and effect as upon any private person or persons, that is to say, those which shall be payable to any person or persons, his, her, or their order, shall be assignable by endorsement in like manner and with like effect as foreign bills of exchange now are; and those which are payable to bearer shall be negotiable and assignable by delivery only.

Sec. 6. Be it further enacted, That if any person or persons, holding any note or notes of said bank, shall present the same for payment, and payment shall be refused, the said note or notes shall draw interest at the rate of twelve per cent. per annum, from the time of said demand, and the said bank shall pay the same, any law to the contrary notwithstanding; and the holder of the notes of said bank, if not paid on demand, may bring an action of assumpsit against one or all of the directors who may have consented to issue more than twice the stock paid in, provided, the bank be unable to pay the amount.

Sec. 7. Be it further enacted, That in case of an insolvency of the bank hereby created or ultimate inability on the part of this corporation to pay, the individual stockholders shall be liable to creditors, in sums double the amounts of stock by them respectively held in said corporation.

Sec. 8. Be it further enacted, That the directors shall be allowed to keep open the subscription books until the whole of the stock shall be taken.

Sec. 9. Be it further enacted, That if a director or any other officer, agent or servant of said corporation shall embezzle any of the funds belonging to said bank, with the intent to defraud said corporation, or make false entries upon the books of said bank, with intent to defraud said corporation, or any other person whomsoever, said officer, agent or servant shall be held and deemed guilty of felony, and upon conviction thereof by due course of law, shall be punished by fine at the discretion of court, and imprisonment not exceeding five years.

Sec. 10. Be it further enacted, That if any person shall falsely make, forge or counterfeit, or cause or procure to be falsely made, forged or counterfeited, or willingly aid or assist in falsely making, forging or counterfeiting any bill or note in imitation of, or purporting to be a bill or note issued by order of the President and directors of the Bank of Fayetteville, or any order or check upon said bank, or corporation or any Cashier thereof, or shall falsify alter, or cause or procure to be falsified altered or willingly aid or assist in falsifying altering any bill or note issued by order of the said corporation, or any order or check on said bank or any Cashier thereof, or shall pass or receive with intent to pass, alter or publish as true, any false, forged or counterfeited bill or note purporting to be a bill or note issued by order of said bank, or any Cashier thereof, knowing the same to be falsified altered, or order upon the said bank or any Cashier thereof, knowing the same to be falsified altered or counterfeited, or shall pass, or receive with intent to pass or publish as true any falsified altered bill or note, issued by order of said bank, or any Cashier thereof, knowing the same to be falsified altered, with intent to defraud the said corporation or any other body politic or person or persons; every such person shall be deemed guilty of felony, and being thereof convicted by due course of law, shall be imprisoned, not exceeding ten years, and fined not exceeding five thousand dollars.

Sec. 11. Be it further enacted, That the President or Cashier of said Bank shall annually pay into the Treasury of the State, twelve and a half cents on each share of said capital stock, which may have been subscribed for, and paid in; and the first payment of said tax shall be made twelve months after said bank shall have commenced operations.

Sec. 12. Be it further enacted, That the directors of said bank may declare semi-annually dividends of the profits thereof; and if at any time more than the real profits are divided, the directors assenting thereto shall be responsible, in their private capacities to creditors who have claims against the said institution.

Sec. 13. Be it further enacted, That the President of this bank shall in the first week in December, in each and every year, transmit to the General Assembly a full statement of the condition of the bank, exhibiting the amount of capital, notes in circulation, debts due to other banks and to what banks deposited, and all other particulars necessary to explain the debit side of the account; also specie on hand, notes of other banks and what banks, bills of exchange, debt on bonds and notes discounted, specifying in one item the amount due from stockholders, and in another the amount due from directors, not, however, using any person's name in either case; and the real estate.

Sec. 14. Be it further enacted, That if any President, Cashier, clerk or other officer of the aforesaid bank, shall knowingly, willingly and with intent to deceive, make or cause to be made, or continue at making any false return, statement or exhibit of the condition of the bank, either to the Treasurer of the State, to the Legislature or to the board of directors or to the stockholders, or to any other person or persons that may be authorized by the Legislature or by the stockholders to receive the same, such President, directors, Cashier, clerk or other officer, and all persons aiding or abetting in such deception or false return, shall be liable to be indicted for a misdemeanor, in the Superior Courts; and upon conviction, shall be fined at the discretion of the court, and imprisoned not exceeding one year.

Sec. 15. Be it further enacted, That whenever the Legislature may be of opinion that the Charter of the corporation,

herely granted, shall have been violated, it may be lawful, by joint resolution, to direct the Attorney General, with such assistant counsel as the Governor or the Legislature may think proper to engage, to issue a writ of *scire facias*, returnable before the Judges of the Supreme Court, calling upon said corporation to show cause why the Charter hereby granted shall not be forfeited, subject to the same proceedings as are now prescribed by law as in cases of other corporations.

Sec. 16. Be it further enacted, That if it shall happen, when the books shall be opened as aforesaid, that a greater sum than eight hundred thousand dollars shall be subscribed, by individuals or by bodies corporate, it shall be lawful for the commissioners to reduce such subscriptions, according to a scale, by them to be established for that purpose, to the aforesaid amount of eight hundred thousand dollars; Provided, that no subscription of two shares or under shall be scaled, until all larger subscriptions shall first be reduced to an equality with them.

Sec. 17. Be it further enacted, That whenever ten thousand shares shall have been subscribed, and the sum of five hundred thousand dollars shall have been paid in specie or its equivalent, the President and directors of the said bank shall cause to be located, branches or agencies of the said bank, at Wadesboro', in the county of Anson; and at Greensboro', in the county of Guilford; and at Salisbury, in the county of Rowen; and at the town of Washington, in the county of Beaufort.

[Ratified 27th day of January, 1849.]

CHAPTER IX.

An Act to amend the 13th Chapter of the Revised Statutes, entitled "An Act concerning bills, bonds, and promissory notes."

WHEREAS, doubts are entertained whether days of grace are to be allowed on sight bills, and there is no established mercantile usage on the subject in this State: 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 from and after the passage of this act, all bills of exchange, payable within this State, at sight, or at a future day certain, in which there is no express stipulation to the contrary, shall be, and the same are hereby declared to be entitled to days of grace, as the same are allowed by the custom of merchants on foreign bills of exchange, payable at the expiration of a certain period after date or sight.

Sec. 2. Provided, that the same shall not apply to any bill of exchange, promissory note or draft payable on demand, but the same shall be due and payable on demand, and no days of grace shall be allowed thereon.

[Ratified 29th day of January, 1849.]

CHAPTER X.

AN ACT to provide for the improvement of Clubfoot and Harlow's Creek Canal, and for other purposes.

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 John F. Jones, Thomas Duncan, Benjamin S. Perry, Michael P. Arndt, Malachi B. Robeson and Josiah F. Bell, in this town of Beaufort, Carteret County, and James W. Bryan, Charles Slayor, A. F. Jenkins, Moses W. Jarvis and John Blackwell, in the town of Newbern, Craven County, be, and they are hereby appointed commissioners to open books in said town, for the purpose of receiving subscriptions for the clearing out and improvement of Clubfoot and Harlow's Creek Canal; and that whenever three thousand dollars shall be subscribed by solvent individuals, the subscribers thereto shall be incorporated into a company by the name and style of the "President and Directors of the Clubfoot and Harlow's Creek Canal Company," and by that name shall be capable in law of suing and being sued; shall have succession and a common seal; shall be capable of holding Clubfoot and Harlow's creek and the lands adjoining necessary for the purposes of said company; 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 conducting the affairs of said company.

Sec. 2. And be it further enacted, That whenever three thousand dollars have been subscribed by solvent individuals, it shall be the duty of the commissioners aforesaid to give the subscribers twenty days notice to assemble at some convenient place; and at said meeting the subscribers shall elect a President and five directors, for the management of the affairs of said company, who shall hold their offices for one year and until the next annual meeting of the stockholders, which meeting shall take place once at least in each year; and at all meetings of the stockholders each stockholder shall be entitled to vote according to the number of shares he may own in the proportion following, viz: for one share and not more than two, one vote; for every two above two, and not exceeding ten, one vote; and for every eight shares thereafter, one vote; provided always, that in all meetings of the stockholders the person representing the State shall be entitled to an equal number of votes with the stockholders present.

Sec. 3. Be it further enacted, That the capital stock of the Clubfoot and Harlow's Creek Canal Company shall consist of six thousand dollars, divided into shares of one hundred dollars each; and the President and directors of said company shall issue certificates of stock to the subscribers therefor, as they are severally entitled.

Sec. 4. Be it further enacted, That to constitute any meeting of the stockholders of the company herein created, a majority of all the votes which could be given upon all the shares shall be present, either in person or by proxy, and notice of such meeting shall be given in the Governor at least twenty days previous to the time of meeting.

Sec. 5. Be it further enacted, That if any stockholder shall fail to pay his subscription as required by the President and directors aforesaid, within one month of the time specified, it shall and may be lawful for the President and Directors to sell at public auction and to convey to the purchaser the share or shares of such stockholder so failing; and if the said sale shall not produce the sum required to be advanced with all the charges, then the President and directors may recover the balance from the original proprietor