

LAWS

OF THE

STATE OF NORTH CAROLINA.

PASSED BY THE GENERAL ASSEMBLY

AT THEIR SESSION, WHICH COMMENCED ON MONDAY, THE TWENTY-THIRD OF NOVEMBER, ONE THOUSAND, EIGHT HUNDRED AND FORTY EIGHT, AND ENDED ON THE TWENTY-FIFTH OF JANUARY, ONE THOUSAND, EIGHT HUNDRED AND FORTY-NINE.

[BY AUTHORITY.]

CHAPTER XIX.

AN ACT supplemental to an act, passed at the present session of the General Assembly, repealing the law establishing a county by the name of Polk.

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 all that portion of the county of Polk which was taken from the county of Rutherford, and the same is hereby ceded back to said county of Rutherford.

Sec. 2. Be it further enacted, That all that portion of the county of Polk, which was taken from the county of Henderson, be, and the same is hereby, ceded back to said county of Henderson.

Sec. 3. Be it further enacted, That the clerk of the superior court of the County of Polk be, and he is hereby, required to make out a transcript of all the suits or cases on his docket, both civil and criminal, and deliver all such transcripts where either or both the parties live in that portion of the county of Polk which was taken from the county of Rutherford, and deliver the same, with all the original papers relating to said transcripts, and all the records and dockets belonging to his office, to the clerk of the superior court of Rutherford county. And the said superior court clerk of Polk county is further required to deliver to the clerk of the superior court of Henderson county a transcript of all suits or cases where the parties live in that portion of the county of Polk which was taken from the county of Henderson, with all the original papers relating to said transcripts.

Sec. 4. Be it further enacted, That the clerk of the court of pleas and quarter sessions of the county of Polk be, and he is hereby required to make out a transcript of all the suits or cases on his docket, both civil and criminal, where the intervention of a jury may be necessary, and deliver all such transcripts, where either or both of the parties live in that portion of the county of Polk which was taken from the county of Rutherford, with all the original papers relating to said transcripts, to the clerk of the superior court of Rutherford county. And the said clerk of the court of pleas and quarter sessions of Polk county is further required to deliver to the clerk of the superior court of Henderson county, a transcript of all suits or cases where the intervention of a jury may be necessary, where the parties live in that portion of the county of Polk which was taken from the county of Henderson, with all the original papers relating to said transcripts, to the clerk of the superior court of Henderson county.

Sec. 5. Be it further enacted, That the aforesaid clerk of the court of pleas and quarter sessions of the county of Polk be, and he is hereby, required to deliver to the clerk of the court of pleas and quarter sessions of Rutherford county, all the court dockets belonging to his said office, with all other documents and papers belonging to the same, except such as are provided for in the fourth section of this act.

Sec. 6. Be it further enacted, That the clerk and master in equity of said county of Polk be, and he is hereby required to deliver over to the clerk and master in equity of the county of Rutherford all books, records, documents and papers relating or belonging to his said office.

Sec. 7. Be it further enacted, That the sheriff of the county of Polk be, and he is hereby, required to deliver to the sheriff of Rutherford county, all the office or court papers in his hands, where the defendants live in that portion of Polk county which was taken from the county of Rutherford. And he is hereby further required to deliver to the sheriff of the county of Henderson all the office or court papers in his hands, where the defendants live in that portion of Polk county which was taken from the county of Henderson.

Sec. 8. Be it further enacted, That the county trustee of Polk county be, and he is hereby, required to deliver over to the county trustee of the county of Rutherford, all moneys, books and papers relating to his office as trustee; and that the county court of Rutherford be authorized to pay all claims allowed by the justices of the county of Polk, and settle all county claims against said county.

Sec. 9. Be it further enacted, That the county register of Polk county be, and he is hereby required to deliver to the register of Rutherford county, all books, records, deeds or other papers in his possession, as register.

Sec. 10. Be it further enacted, That the entry taker of the county of Polk be, and he is hereby, directed to deliver to the entry taker of Rutherford county all books and records in his possession as entry taker.

Sec. 11. Be it further enacted, That the acting justices of the peace, who reside in that portion of the county of Polk which was taken from the county of Rutherford be, and they are hereby constituted acting justices of the peace in and for the county of Rutherford. And all the acting justices of the peace who reside in that portion of the county of Polk which was taken from the county of Henderson be, and they are hereby, constituted acting justices of the peace in and for the county of Henderson.

Sec. 12. Be it further enacted, That all persons liable to do military duty in that portion of Polk county which was taken from the county of Rutherford, are hereby required to muster, and perform all other public duty in the county of Rutherford. And all persons liable to do military duty in that portion of Polk county, which was taken from the county of Henderson, are hereby required to muster and perform all other public duties in the county of Henderson.

Sec. 13. Be it further enacted, That all voters who live in that portion of Polk county, which was taken from the county of Rutherford, in all elections hereafter held, shall be required to exercise their elective franchise in the county of Rutherford. And all voters who live in that portion of Polk county which was taken from the county of Henderson, in all elections hereafter held, shall be required to exercise their elective franchise in the county of Henderson.

Sec. 14. Be it further enacted, That the chairman of the

board of superintendents for common schools of Polk county, be directed to pay to the superintendent of common schools of Rutherford county, three fourths of the money in his hands, and one fourth to the superintendent of common schools of Henderson county.

Sec. 15. Be it further enacted, That the clerks of the superior and county courts of the counties of Rutherford and Henderson shall have the same power and authority over all the records, documents and papers, which are hereby required to be transferred to their offices, by the clerks of the superior and county courts of Polk county, as if such records, documents and papers had heretofore belonged to the offices of the county and superior court clerks of the counties of Rutherford and Henderson; and the said clerks of the county and superior courts of Rutherford and Henderson are hereby required to enter all causes of trial and other matters of record, upon their respective dockets, strictly observing the order and number of the same.

Sec. 16. Be it further enacted, That the officers required to perform their respective duties in the 3, 4, 5, 6, 7, 8, 9, 10 and 14th sections of this act, shall be allowed until the first day of March next to perform the same, and in case of failure on the part of either of the aforesaid officers to comply with the provisions of this act, such officer so failing to perform the duty hereby required of him, shall, for such neglect of his duty, forfeit and pay the sum of five hundred dollars, to be sued for and recovered, by action of debt, by the prosecuting attorney for the State, in either the county or superior courts of the counties of Rutherford or Henderson; the money to be applied to the use of the county suing for the same.

Sec. 17. Be it further enacted, That all laws and clauses of laws coming in conflict with the provisions of this act, be, and the same are hereby, repealed.

Sec. 18. Be it further enacted, That this act shall be in force from and after its ratification.

[Ratified 25th day of January, 1849.]

CHAPTER XX.

AN ACT to amend an act, passed at the last session of the General Assembly, entitled "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 the county court of Irredell shall appoint one commissioner, and the county court of Alexander another commissioner, whose duty it shall be to run, if necessary, mark and establish the boundary line between the counties of Irredell and Alexander; and the said commissioners shall be entitled to a compensation of one dollar and fifty cents per day, for every day they may be necessarily engaged in the same, to be allowed by their respective courts and paid as other county claims are now paid.

Sec. 2. Be it further enacted, That said commissioners shall be and they are hereby required to make a full report, under their hands and seals, of their proceedings; a copy of which report shall be by them returned to the county court of their respective counties, to be filed among their records.

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

[Ratified the 29th day of January, 1849.]

CHAPTER XXI.

AN ACT to amend an act supplemental to an act, passed at the session of one thousand, eight hundred and forty two and three, entitled "An Act to lay off and establish a county by the name of McDowell."

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 in future, that portion of the county of McDowell which heretofore constituted a part of the county of Rutherford, shall be represented in the General Assembly of this State with that portion of the said county of McDowell which heretofore constituted a part of the county of Burke; and that in all elections hereafter to be held in this State, the same shall, in every particular, in that portion of the said county of McDowell heretofore taken from the said county of Rutherford, be held in the same manner, and under the same rules, regulations and restrictions, as the said elections are directed to be held in that portion of the said county of McDowell heretofore taken from the said county of Burke, by the sixteenth section of the act, passed at the session of 1842 and 1843, entitled "an act supplemental to an act entitled 'an act to lay off and establish a county by the name of McDowell.'"

Sec. 2. And be it further enacted, That all laws and clauses of laws coming in conflict with the meaning and purview of this act, be, and the same are hereby, repealed.

[Read three times and ratified in General Assembly this 16th day of January, 1849.]

CHAPTER XXII.

AN ACT to revive and amend the seventh section of an act, supplemental to an act passed by the General Assembly in the year 1842, entitled "An Act to lay off and establish a new county of the name of Catawba."

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 seventh section of such act be so revived and amended, as to provide for the appointment of the following commissioners, viz: George D. Wilkey, William P. Reinhardt, Dr. Wm. J. Gunter, Henry Harmon and George Little, who shall be empowered, after appropriating the lot upon which the male Academy now stands in the town of Newton, in the said county of Catawba, to the purposes of education and the other lot in the said town for an establishment of a female academy, to sell the remaining lots in the said town of Newton, (after giving thirty days notice) which are unsold, and to appropriate the proceeds of such sales to the use of the said county of Catawba.

Sec. 2. 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.

[Read three times and ratified in General Assembly this 16th day of January, 1849.]

CHAPTER XXIII.

AN ACT for dividing the County of Stokes.

WHEREAS the extent and peculiar situation of the county

of Stokes render it desirable, with a large majority of its inhabitants, to have the same divided:

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 passing of this act, the county of Stokes shall be divided into two distinct counties, by a line beginning at the South West corner of Rockingham county, and running thence West to the Surry county line.

Sec. 2. And be it further enacted, That all that part of the said county, lying North of said line, shall be erected into a distinct county by the name of Stokes county; and all that part lying South of said line, shall be erected into another distinct county by the name of Forsyth county, in honor of the memory of Col. Benjamin Forsyth, a native of Stokes county, who fell on the Northern frontier, in the late war with England.

[Ratified 16th January, 1849.]

CHAPTER XXIV.

AN ACT supplemental to an act, passed at the present General Assembly, entitled "An Act to divide the county of Stokes into two distinct counties."

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 counties of Forsyth and Stokes shall be, and they are hereby respectively, invested with all the rights, privileges and immunities of the other counties of this State.

Sec. 2. Be it further enacted, That Caleb Jones, Frederick C. Munnig and John Banner, be, and they are hereby, appointed commissioners, and are empowered and required to run the line, dividing the new county of Stokes from the county of Forsyth, agreeably to the directions of said act; and when said commissioners, or a majority of them, shall have run and marked said line, they shall make a report, in writing, of the principal landmarks designating the same, to the county court of each of said counties, where such report shall be duly entered of record; and the said line shall be deemed and taken as the dividing line between said counties. The expense of running said line shall be defrayed, one half by the county of Stokes and one half by the county of Forsyth: Provided, however, in running said dividing line, it shall be the duty of said commissioners to run the line near Germantown, so as to leave the court house and public buildings in the county of Stokes, and that they shall be the property of said county and subject to such disposition as the county court of said county may make of them.

Sec. 3. Be it further enacted, That Alexander King, William C. Moore, James Byerson, John Banner and Stephen Smith, be, and they are hereby appointed commissioners for the county of Stokes, and Zadock Stafford, John Stafford, Henry A. Lemley, Leonard Conrad and Francis Fries, be, and they are hereby appointed commissioners for the county of Forsyth, whose duty it shall be to select and determine suitable sites for permanent seats of justice in their respective counties; to purchase, or receive by donation, tracts of land on which to erect the necessary public buildings; to lay off the residue, not used for public purposes, in streets and town lots; to sell such lots at public auction to the highest bidder, on a credit of one and two years; to cause bonds with good security to be executed and delivered to the chairman of the county court of each of said counties respectively, and his successors, for the amount realized at such sale: Provided, however, it shall be the duty of said commissioners to purchase for and at each court house not less than thirty acres of land.

Sec. 4. And be it further enacted, That the title of the said tracts of land obtained by said commissioners, shall be made to the chairman of the county court of county in which such land is situated and his successors in office, and by him to the person or persons purchasing from said commissioners.

Sec. 5. Be it further enacted, That said commissioners, or a majority of them, shall apportion any debt which may be due from the original county between the two new counties, in such manner as to them or a majority of them shall seem just and equitable.

Sec. 6. Be it further enacted, That said commissioners, in their respective counties, shall cause to be erected the necessary public buildings, according to such plans, in such manner, and on such terms, as they, or a majority of them, may consider most conducive to the public good; provided the cost of erecting such buildings does not exceed the amount to be determined on by the respective county courts.

Sec. 7. In case of any of the commissioners above appointed should refuse, or in any way be prevented from aiding in the discharge of the duties by this act imposed, then the acts of the remainder of said commissioners (there not being less than three acting in either of the respective counties) shall be as valid as though all had participated.

Sec. 8. Be it further enacted, That all papers originally from that part now composing the county of Stokes shall be transferred to the wardens of said county of Stokes; and all papers originally from that part now composing the county of Forsyth, shall be transferred to the wardens of said county of Forsyth.

Sec. 9. Be it further enacted, That the counties of Forsyth and Stokes shall continue to be represented in the General Assembly of this State as one county, in the name of the county of Stokes, until a future Legislature shall otherwise provide and direct; and until such provision is made, all elections shall be held for Governor of the State, members of both houses of the General Assembly, and of Congress, and Electors for President and Vice President of the United States by the sheriff or other returning officers of Stokes county, in all the territory comprehended in the limits of the counties of Stokes and Forsyth, at the times and places, and under the same rules, regulations and restrictions, as have been appointed or may hereafter be appointed by law; and the certificate of said sheriff or returning officer, to the result of said election or elections shall be as valid and effectual, to all intents and purposes, as if the act to divide the county of Stokes had never been passed.

Sec. 10. Be it further enacted, That all the justices of the peace and officers of the militia who reside within the respective counties of Stokes and Forsyth, shall continue to hold and exercise all the official powers and authorities in and for said counties in which they reside, as fully as they have hitherto held and exercised in the original county of Stokes.

Sec. 11. Be it further enacted, That the clerk of the county court, clerk of the superior court, the clerk and master of the court of equity, the sheriff and coroner, register and surveyor, and all the constables of the original county of Stokes

shall hold their respective offices and perform all duties, appertaining thereto in and for the county in which their residence is situated, at the time this act is ratified, and so continue to do until the time for which they have been elected or appointed shall have expired, under the same rules, regulations and penalties, as they would have been subject to in case the act to divide the county of Stokes had not been passed.

Sec. 12. Be it further enacted, That the sheriff of the original county of Stokes shall have power to collect such sums of money as are due or may become due on any judgment before the first county court in either of said new counties of Stokes or Forsyth, and he shall pay such sums of money so collected to the proper officer in the county in which such money shall have been collected; and further, said sheriff shall have power to collect all arrears of taxes due him in both said counties.

Sec. 13. Be it further enacted, That all public records and documents of the old county of Stokes, shall remain in care of the respective officers who now have charge of them, until otherwise ordered by the courts of the respective counties in which such officers reside. This section shall not be so construed as to prevent the said officers from transferring the papers in cases now pending in different courts in Stokes county as hereinafter directed.

Sec. 14. Be it further enacted, That a court of pleas and quarter sessions shall be, and the same is hereby established in and for the said county of Stokes, to be held by the justices appointed in the tenth section of this act, and such others as may hereafter be appointed for said county, on the second Mondays of March, June, September, and December in each and every year; the first session of which shall be held at Germantown, on the second Monday of March next, when and where such court shall appoint all the necessary court officers not kept in office under the eleventh section of this act: Provided, however, that the county court of Stokes, a majority of the justices being present, shall have power to determine at what time the new court house and jail for said county shall be built, and at what time the holding of the county and superior courts shall be removed to the place designated by the commissioners herein appointed for that purpose.

Sec. 15. Be it further enacted, That a court of pleas and quarter sessions shall be, and the same is hereby established in and for the county of Forsyth, to be held by the justices appointed in the tenth section of this act, and such others as may hereafter be appointed, in and for said county, on the third Mondays in March, June, September and December, in each and every year; the first session of which shall be held on the third Monday in March next, in the town Hall at Salem, when and where the court aforesaid shall appoint the necessary court officers not kept in office under the eleventh section of this act; and said court at its first session may appoint the place of its future sessions, until a court house shall have been erected for said county. After the erection of a court house, the courts of said county shall be held in the same.

Sec. 16. Be it further enacted, That all persons who may be liable to imprisonment, under any process either civil or criminal, in either of said counties, before the completion of their respective jails, may be committed to the old jail of the original county of Stokes, or to the jail of any adjoining county, in like manner as when a jail has been destroyed by accident.

Sec. 17. Be it further enacted, That all cases pending in the county court of the original county of Stokes, in which either of the parties defendant or the ex parte petitioner live in the county of Forsyth, and all indictments against any of its citizens, shall be transferred to the county court of Forsyth county. And all cases not included in the above shall be transferred to the county court of Stokes county: Provided, that in cases where neither of the defendants live in either of said counties, the case shall be removed to the court of either county as the plaintiff may desire. And the clerk who has charge of the records of the original county of Stokes by the thirteenth section of this act, shall make out a regular transcript of all cases to be removed from his docket by this section, and deliver all the papers, in such cases, to the court to which they are to be removed, in like manner as now provided for transferring suits from one county to another. The said clerk shall deliver all said transcripts and papers to the court to which they are to be removed, on the first day of its first term. And further, the said clerk shall, at the same time, deliver to the county courts of the respective counties of Stokes and Forsyth the tax lists of the year one thousand eight hundred and forty eight, which he has received from the precincts of the respective counties.

Sec. 18. Be it further enacted, That there shall be a superior court of law, and a court of equity opened and held for the county of Forsyth, on second Monday after the fourth Monday in March and September in each and every year; and that there shall be a superior court of law and a court of equity opened and held for the county of Stokes, on the third Monday after the fourth Monday in March and September in each and every year; which courts shall have the same jurisdiction that corresponding courts in the several counties of this State now have and exercise. The first term of said courts for the county of Forsyth shall be opened and held on the second Monday after the fourth Monday of March next; and the first term for the county of Stokes, shall be opened and held on the third Monday after the fourth Monday of March next, at that place in each county which will have been selected by the county court of such county as the place of its future sessions. At the first term of said courts in both counties the judge shall appoint the necessary court officers not appointed by the eleventh section of this act.

Sec. 19. Be it further enacted, That the counties of Forsyth and Stokes shall constitute a part of the fourth circuit, and the solicitor who shall attend the superior courts of said counties shall be entitled to the same pay for his services that he is entitled to receive for attending the other courts on his circuit.

Sec. 20. Be it further enacted, That all cases pending in the superior court of law and the court of equity of the original county of Stokes in which either of the plaintiffs or either of the petitioners reside in the county of Forsyth, and when neither of the plaintiffs live in either of said counties, but one of the defendants lives in the county of Forsyth; and all indictments against any of its citizens, shall be removed to the respective courts in the county of Forsyth. The cases not above stated shall be removed to the new county of Stokes: Provided, the cases where neither of the parties live in either of said counties, shall be removed as