

Sec. 6. 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 President or any of the directors 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 tempore*, 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 appointment of the board until the next annual meeting.

Sec. 7. The President and directors of said company shall be, and they are hereby invested with all the rights and powers necessary for the construction and repair, with as many locks and dams as they or a majority of them may deem necessary, and also to make and continue all works whatever, which may be necessary and expedient, in order to the proper completion of the work.

Sec. 8. The said President and directors shall have power to make contract with any person or persons, on behalf of the company, for constructing said works and performing all other work 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 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. 9. If any stockholder shall fail to pay the sum required of him, 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 stockholder 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 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 receive 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 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. 10. *Be it further enacted*, That the said President and directors, their officers and servants, shall have full power and authority to enter upon all lands and tenements through which they may desire to conduct their work, and to lay out the same according to their pleasure, so that the mill house, yard or other buildings of no person be invaded without his consent; and they shall have power to enter on and lay out such contiguous land, as they may desire to occupy, as sites for depots, toll houses, ware houses, work shops and other buildings for the necessary accommodation of their officers, agents and servants, their horses, mules and other cattle, and for the protection of the property entrusted to their care: *Provided*, that the land so laid out shall not exceed one and a half acres in any one parcel.

If the President and directors cannot agree with the owner or owners of the land 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 thereof may lie; and upon such application the court shall appoint five disinterested and impartial freeholders to assess the damages to be paid to the owners 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 to the guardian, if the owner be an infant, or the committee, the owner being *non compos mentis*; if such owner, guardian or committee 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 been posted at the door of the court house, on the first day at least of the next preceding term of the said court.

A day for the meeting of said freeholders, to perform the duty assigned them, shall be designated in the order appointing them; and any one or more of them attending on the day, may adjourn from time to time, until their business shall be finished: Of the five freeholders so appointed any three or more of them may act, after having been duly sworn or solemnly affirmed before some justice of the peace, that they will impartially and justly to the best of their ability, ascertain the damages which will be sustained by the proprietor of the land from the condemnation thereof for the use of the company, and that they will truly certify their proceedings thereon to the court of the said county.

Sec. 11. It shall be the duty of the said freeholders, in pursuance of the order appointing them, to assemble on the land proposed to be condemned; and after running the same and hearing such proper evidence as the party may offer, they shall ascertain, according to their best judgment, the damages which the proprietor of the land will sustain by the condemnation thereof for the use of the company. In performing this duty, they shall consider the proprietor of the land as being the owner of the whole fee simple interest therein; they shall take into consideration the quality and quantity of the land to be condemned, the additional fencing that will be required thereby, and all other inconveniences which will result to the proprietor from the condemnation thereof.

Sec. 12. When the said freeholders shall have agreed upon the amount of damages, they shall forthwith make a written report of their proceedings, under their hands and seals, in substance as follows: We _____, freeholders appointed by an order of the court of pleas and quarter sessions for the purpose of ascertaining the damages that will be sustained by _____, the proprietor of certain lands in the said county, which the President and directors of the Cape Fear and Deep River Navigation Company propose to condemn for their use, do hereby certify that we met together, on the land aforesaid, on the _____ day of _____, the day therefore by the said order, (or the day to which we were regularly adjourned from the day appointed for our meeting by the said order); and that having been first duly sworn, and having visited the premises, we proceeded to

estimate the quantity and quality of land aforesaid, the quantity of additional fencing which would probably be occasioned by the condemnation, and all other inconveniences which seemed to us likely to result therefrom to the proprietor of the land. That under the influence of these considerations, we have estimated and do hereby assess the damages aforesaid at the sum of _____. Given under our hands and seals, this _____ day of _____.

At the foot of the report so made, the magistrate, before whom the said freeholders were sworn, shall make a certificate in substance as follows: _____ County.

I, _____, a justice of the peace of said county, do hereby certify that the above named freeholders, before they executed their duties as above certified, were solemnly sworn (or affirmed) before me; that they would impartially and justly, to the best of their ability, ascertain the damages which would be sustained by the above named _____, by the condemnation of the above mentioned land for the use of the "Cape Fear and Deep River Navigation Company," and they would certify truly their proceedings thereupon to the Court of said county.

Given under my hand this _____ day of _____.

Sec. 13. The report of the freeholders so made, together with the certificate of the justice of the peace as aforesaid, shall be forthwith returned by the said freeholders to the court of the county; and unless good cause can be shown against the report, it shall be confirmed by the court and entered on record. But if the said report should be disaffirmed, or if the said freeholders, being unable to agree, should report their disagreement, or, from any other cause, they should fail to make a report within a reasonable time after their appointment, the court may, in its discretion, as often as may be necessary, supersede them, or any of them, appoint others in their stead, and direct another view and report to be made in the same manner as above prescribed.

Sec. 14. On the confirmation of any such report, and on payment of the damages assessed, or the payment of said damages into court, when, for good cause shown, the court shall have so ordered it, the land reviewed and assessed as aforesaid, shall be vested in "The Cape Fear and Deep River Navigation Company," and they shall be adjudged to hold the same in fee simple, in the same manner as if the proprietor had sold and conveyed it to them.

Sec. 15. While these proceedings are depending for the purpose of ascertaining the damages to the proprietor for the condemnation of his land, and even before they shall have been instituted, the President and Directors, if the interest of the company requires it, may, by themselves, their officers, agents and servants, enter upon the lands laid out by them as aforesaid and which they desire to condemn, and apply the same to the use of the company.

If, when they so take possession, proceedings to ascertain the damages as aforesaid be pending, it shall be their duty diligently to prosecute them to a conclusion; and when the report of freeholders ascertaining the damages shall be returned and confirmed, the court shall render judgment in favor of the proprietor of the land for the amount thereof, and either compel its payment into court or award a process of execution therefor, as to them shall seem right.

Sec. 16. In the mean time no order shall be made, and no injunction shall be awarded by any court or judge, to stay the proceedings of the company in the prosecution of their work, unless it be manifest that their officers, agents and servants, are transgressing the authority given them by this act; and that the interposition of their court is necessary to prevent injury that cannot be adequately compensated for in damages.

Sec. 17. If the President and directors shall take possession of any land before the same shall have been purchased by them, or condemned and paid for, according to the provisions of this act, and shall fail for forty days to institute proceedings for its condemnation as aforesaid, or shall not prosecute with due diligence the proceedings commenced for that purpose, it shall be lawful for the proprietor of the land, upon giving to the said President and directors, or any one of them, ten days previous notice, to apply to the court of the county in which the land or the greater part thereof shall 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 his lands for the use of the company, shall appoint a day for their meeting to report the duties assigned them, and shall dismiss at the cost of the company, any proceeding then depending in their behalf for the condemnation of said land.

The freeholders so appointed, any three or more of whom may act, shall proceed in the performance of their duties in all respects in the same manner as if they had been appointed on the application of the President and directors of the company. And the court shall in like manner confirm or disaffirm their report, supersede them, or any of them, and appoint others in their stead, or direct another view and report to be made as often as may be necessary. And when any such report, ascertaining the damages, shall be confirmed, the court shall render judgment in favor of the proprietor for the damages so assessed, and double costs; and shall thereupon either compel the company to pay into court the damages and costs so adjudged, or award a process of execution therefor, as to them shall seem right.

Sec. 18. When the judgment rendered for the damages assessed and costs, shall be satisfied by the payment of the money into court or otherwise, the title of the land for which such damages are assessed, shall be vested in the company in the same manner as if the proprietor had sold and conveyed it to them.

Sec. 19. The said President and directors, for the purpose of constructing their work aforesaid and the works necessarily connected therewith, or of repairing the same, after they shall have been made, or of enlarging or otherwise altering the same, shall be at liberty, by themselves, their officers, agents or servants, at any time, to enter upon any adjacent land, and to cut, quarry, dig, take and carry away therefrom, any wood, stone, gravel or earth which they may deem necessary: *Provided, however*, that they shall not, without the consent of the owner, cut down any fruit trees, or any tree preserved in any lot or field for shade or for ornament, nor take any timber, gravel, stone or earth constituting any part of any fence or building. For all wood, stone, gravel or earth, taken under authority of this act, and for all incidental injuries done to the enclosures, crops, woods or ground, in taking or carrying the same away, the said President and directors shall make to the owner a fair and reasonable compensation, to be ascertained, if the parties cannot agree, by three impartial and disinterested freeholders, who, being appointed for that purpose by any justice of the peace thereto required by the owner, shall be sworn by him, and shall then ascertain the compensation upon their own view of the wood, stone, gravel or earth taken, and of the injury done as aforesaid in taking them: *Provided, however*, that it shall be the duty of the owner or owners to shew to the justices of the peace to whom the application is made, that ten days previous notice of the time of making the same has been given to the President or one of the principal agents of the company; and no award which may be given under any appointment, without

such notice, shall be obligatory or binding on said company: *Provided, however*, that either party not satisfied with the award which may be given as above, may appeal to the court of pleas and quarter sessions of the county in which the land may be situated, who may, as in the case of assessment of land, confirm or disaffirm the report of the freeholders, supersede them, or any of them, and appoint others in their stead, or direct another view and report to be made as often as may be necessary.

Sec. 20. If the said President and directors, in entering upon the land of any person under the authority of this act, for the purpose of laying out or constructing, enlarging, altering or repairing any of their said works, shall, by themselves or their officers, do any wanton or wilful injury to such land or its appurtenances, or to the crops growing or gathered, or to any other property thereon, the "Cape Fear and Deep River Navigation Company" shall pay to the persons so injured double the amount of the damages which shall be assessed by a jury in any proper action therefor; or if said injury be done by any person or persons who may have contracted with the company for the construction of any portion of their work, or any of the works connected therewith, he or they shall be responsible to the party injured in the like amount.

Sec. 21. *Be it further enacted*, That all acts and clauses of this act, which come within the purview and meaning of this act, or which give rights, privileges and franchises at variance with those given by this act, but which rights, privileges and franchises have not as yet been used and enjoyed, be, and they are hereby declared to be repealed and made void.

Sec. 22. The said President and directors, or a majority of them, shall have power to purchase with the funds of the company, and place in the river which shall have been improved, boats of any description whatever, which they may deem necessary or proper for the purpose of transportation, or, if they should deem it most expedient to do so, they may contract with any individual or individuals for effecting the transportation of the same.

Sec. 23. All boats and other property purchased as aforesaid with the funds of the company, or engaged in the business of transportation on said river or rivers, and all the works of the said company constructed, or property acquired under the authority of this act, and all profits which shall accrue from the same, shall be vested in the respective stockholders of the company forever, in proportion to their respective shares, and the same shall be deemed personal estate, and shall be exempt from any public charge or tax whatsoever for the term of fifteen years; and thereafter the Legislature may impose a tax not exceeding twenty five cents per annum, per share, on each share of the capital stock, whenever the annual profits thereof shall exceed six per cent.

Sec. 24. When this work shall have been completed, the company shall at all times furnish and keep in good repair the necessary boats and other requisites for the safe and convenient transportation of persons and property; and it shall be their duty at all times, upon the payment or tender of the tolls hereby allowed, to transport to any depot on the river which the owner of the goods may indicate, and there to deliver all articles which shall be delivered to them for transportation, or offered to them in proper condition to be transported at some depot on the river most convenient for the reception thereof.

Sec. 25. They shall give no undue preference in transportation to the property of one person over that of another, but as far as practicable shall carry each in the order of time in which it shall be delivered or offered for transportation with tolls paid or tendered. If the company or any of its officers or agents shall fail to receive, transport or deliver in due time, any property so offered or delivered to them for transportation, or shall fail to take up or set down any passengers at such convenient point, as he or they may desire, upon the payment or tender of the passage money hereby allowed, they shall forfeit and pay to the party so injured, double the amount of the lawful toll paid or tendered; and shall moreover, be liable to an action on the case, in which full damages and costs shall be recovered.

Sec. 26. So soon as any portion of the river hereby authorized may be in readiness for transportation, it shall be lawful for the said President and directors to transport, by their officers or agents, by contractors under them, persons and property on the same; and they shall have power to charge for the transportation of persons, goods, produce, merchandise and other articles, and for the transportation of the mails, any sum not exceeding the following rates, viz: persons, not exceeding six cents per mile for each person; for the transportation of goods, produce, merchandise and other articles, not exceeding an average of ten cents per ton per mile; and for the transportation of the mail, such sums as they may agree for; and the said President and directors shall be furthermore entitled to demand and receive for the weighing, storage and delivering of produce and other commodities at their depots and ware houses, rates not exceeding the ordinary ware house rates charged for such services.

Sec. 27. As soon as the river shall be made navigable for steam-boats of shallow draft as far up the river as Haywood, the President and directors shall annually or semi-annually declare and make such dividends as they may deem proper, of the net profits arising from the resources of the said company, after deducting the necessary current and probable contingent expenses of the said company; and shall divide the same among the proprietors of the stock of the said company in proportion to their respective shares.

Sec. 28. An annual meeting of the subscribers to the stock of the said company shall be held at such time and place in each year, as the stockholders at their first general or at any subsequent meeting may appoint; to constitute which, or any general meeting called by the President and directors, according to the provisions of this act, the presence of proprietors entitled to a majority of all the votes which could be given by all the stockholders shall be necessary, either in person or by proxy, properly authorized; and if a sufficient number do not attend on that day, or any day appointed for a general meeting called by the directors as aforesaid, the proprietors who do attend may adjourn from time to time until a general meeting shall be had.

Sec. 29. In counting all votes of the said company, each member shall be allowed one vote for every two shares not exceeding four shares; one vote for every four shares above four shares, and not exceeding ten shares; and one vote for every five shares above ten, by him held at the time, in the stock of the company: *Provided, however*, that no stockholder, whether an individual, body politic or corporate, shall be entitled to more than sixty votes on any amount of the capital stock of said company held by him or them.

Sec. 30. The President and directors shall render distinct accounts of their proceedings and disbursements of money to the annual meeting of the stockholders.

Sec. 31. The works hereby required of the company shall be executed with diligence; and if they be not commenced within two years after the passage of this act, and finished within ten years after the first general meeting of the stockholders, then this charter shall be forfeited.

Sec. 32. The President and directors shall cause to be written or printed certificates for the shares of the stock of said company, and shall deliver one such certificate, signed by the President and countersigned by the Treasurer, to

each person, for the number of shares subscribed by him, which certificate shall be transferable by him, subject, however, to all payments due or to become due thereon; and such assignee, having first caused the transfer or assignment to be entered in a book of the company to be kept for that purpose, shall thenceforth become a member of the said company, and shall be liable to pay all such sums due, or which shall become due upon the stock assigned to him: *Provided, however*, that such assignment shall in no wise exempt the assignor or his representative from the liability to the said company for the payment of all such sums, if the assignee, or his representative, shall be unable, or fail to pay the same.

Sec. 33. If any person or persons shall wilfully, by any means whatever, injure, impair or destroy any part of the work constructed under this act, or any of the necessary works belonging to the said company, or shall place any obstruction in said river, such person or persons shall be deemed guilty of a misdemeanor, and, on conviction thereof in the court of pleas and quarter sessions or Superior court of law of the county where the offence may be committed, shall be fined and imprisoned at the discretion of the court.

Sec. 34. *Be it further enacted*, That if at any time hereafter, the above rates of toll and transportation shall enable the said President and directors, after the payment of all necessary expenses, and after setting apart a fair and reasonable sum for the renewal and repair of said work, ware-houses, depots, boats and other works, to divide more than twenty per cent. on their capital stock invested, that the said rates of toll and transportation shall be so reduced by the said President and directors as to enable them to divide twenty per cent. and no more.

Sec. 35. *Be it further enacted*, That no person shall be eligible as President or director of said company, unless he be a resident citizen of this State.

Sec. 36. *Be it further enacted*, That the corporate powers herein granted shall be and endure for ninety nine years and no longer, unless renewed by competent authority.

AN ACT to exempt the wardens of the poor of the several counties in this State from militia duty.

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, the wardens of the poor of the several counties in this State, shall be exempt from militia duty, except in cases of war, insurrection or invasion.

AN ACT to regulate the duties of Sheriffs.

SECTION 1. Sheriffs to pass receipts for all original and mesne process, when required.

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 the duty of the sheriffs of the several counties in this State to pass their receipts for all original and mesne process placed in their hands to the party or parties suing out the same, his, her or their agents or attorneys, when requested so to do by the same; and every such receipt, when duly proved, shall be evidence against the sheriff giving the same, and his sureties, in any suit between such party or parties and the sheriff and his sureties.

AN ACT to amend the first section of the one hundredth and ninth chapter of the Revised Statutes, entitled "An Act concerning Sheriffs."

SECTION 1. No person convicted of felony or *crimen falsi*, shall vote for sheriff.

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 sheriffs of each county in this State shall be elected by the freemen of the county who are entitled to vote for members of the House of Commons, except that no person who shall have been convicted of felony or the *crimen falsi*, shall be capable of voting for sheriff.

AN ACT to amend an act of the General Assembly of North Carolina, passed at its session of 1846 and 7, entitled "An Act to alter the mode of electing Wardens of the Poor," chapter 62. Ratified 18th January, 1847.

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 every person elected a warden of the poor, according to the provisions of the aforesaid act, who shall refuse or neglect to qualify, after notice having been served on him by the sheriff, shall forfeit and pay the sum of twenty dollars, to be sued for and recovered in any court of record, by the chairman of the county court, in action of debt; and the money so recovered to be applied to the use of the county; and when a person elected, shall so refuse or neglect, or when a warden of the poor shall die or remove out of the county for which he was elected, the remaining wardens, or a majority of them, shall elect one or more suitable persons to fill the vacancy or vacancies; and persons so chosen shall be subject to the same penalty for refusing or neglecting to qualify, and when qualified, shall in all respects have the same power and discharge the same duties, as if they had been chosen at the regular election.

AN ACT concerning Widows.

SECTION 1. Widows unable to attend court may enter dissent to will by attorney.

2. Widows being lunatic or non compos mentis may dissent.

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 the widow of any decedent, desirous of dissenting to the last will and testament of such decedent, if she be sick or too infirm to travel to court, satisfactory proof of such sickness or infirmity having been made to the proper court, within six months after the probate of such will and testament, to cause her dissent to be entered by attorney; and such dissent so entered by attorney, shall be as valid and as effectual in law as if the same had been entered in proper person; any law, usage or custom to the contrary notwithstanding.

Sec. 2. *Be it further enacted*, That when any person shall die, having made a last will and testament and leaving a widow lunatic or non compos mentis, and the guardian of such widow shall think it proper for the interest of such widow, that her dissent be entered to such last will and testament, it shall and may be lawful for such guardian to enter his dissent in person, within six months after the probate thereof; and such dissent so entered, shall be as valid and as effectual in law as if entered by such widow in her own proper person, she being of sound mind; any law usage or custom to the contrary notwithstanding.

RESOLUTION relating to the Public Arms.

Resolved, That the Adjutant General is hereby directed to have the arms belonging to the State, and now deposited at the town of Plymouth, Washington county, and Louisburg, Franklin county, transferred to the State Arsenal in the city of Raleigh.