

Laws of North-Carolina.

PASSED IN 1823.
(BY AUTHORITY.)

An Act to amend the Laws making provision for Widows.

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 addition to the provision for the year's support of the Widows and family of persons dying intestate, already made by law, the Widow of every person dying intestate, shall be entitled to retain in her possession, one bed and its necessary furniture, and all the bed clothing of family domestic manufacture, all the kitchen furniture, and also the loom, bureau, wheel and cards, of the goods and chattels of her deceased husband, which shall be her absolute property, and shall be exempted from all claims, either of the administrator or of the creditors of said intestate.

II. Be it further enacted, That the Widow of any person deceased, who shall leave a last will, may, at the same Court at which said will shall be proved, file in said Court a release of all claim to any legacy or share of the personal property of her husband under his will; and the said widow shall then be entitled to the same support for herself and family, for one year, as she would have been entitled to had her husband died intestate, to be laid off and allotted under the rules and proceedings prescribed in cases of petition of widows of persons dying intestate; and also to one bed, and its necessary furniture, all the bed clothing of family domestic manufacture, all the kitchen furniture, and also the loom, together with the bureau, the wheel and cards, if these articles be among the goods and chattels of the deceased; and if the said articles, or any of them, shall have been sold, the widow shall be entitled to the value of the articles thus sold, to be assessed by the commissioners appointed to lay off the year's support, which said provision shall be her absolute property, and shall be exempt from all claims, either of the executor or creditors of said testator.

III. Be it further enacted, That whenever a widow of a deceased person shall file her petition for her year's support, or for the articles allowed her by this act, and the same shall be granted, it shall not be lawful to tax any costs against such petitioner, unless the court shall be of opinion that the value of such year's support, together with that of the articles allowed by this act, exceed the sum of two hundred and fifty dollars.

An Act securing to the Widows of Intestates the surplus of the personal estate of their deceased husbands where no kindred claim the same.

Be it enacted by the General Assembly of the State of North-Carolina, and it is hereby enacted by the authority of the same, That if any citizen of this State shall die intestate, leaving a widow and no kindred that are known to exist, the widow may, at the expiration of three years from the grant of administration on the estate of her husband, file her petition in the Superior Court of Law of the county in which administration was granted, against the administrator of her husband, stating the facts of the case, and that there are no persons of kindred to her knowledge, and praying that the surplus of said estate, after debts and charges paid, may be adjudged to her, which petition shall be sworn or affirmed to by said widow, and copies thereof shall be served upon the administrator, as in other cases of petition; and the same proceedings shall be thereupon had as in other cases of petition. The Court shall order notice of the filing of the said petition, of the facts therein stated, and of the prayer thereof, to be published in some newspaper printed at the seat of government of this State, for at least four months; and if at the next term of said Court, no claimant shall appear, a jury shall be impanelled to enquire whether there be any known kindred of the said intestate: and if said jury, after hearing the petition and answer and such testimony as may be offered, shall find that there was not any known kindred of said intestate living at his or her decease, the Court shall adjudge and decree, that the administrator account with the widow for the whole surplus personal property in the hands of said administrator, after paying debts and charges of administration. And such account shall be taken as accounts are taken in other cases of petition in said Court for distributive shares of intestates estates, and judgment shall be rendered against said administrator for the said surplus. *Provided always*, That it shall be lawful at any time, pending said petition, for any person, claiming to be of kin to the intestate, to apply to said Court by petition, to authorise him to be made defendant to said petition, and to contest the facts stated in the petition.

II. Be it further enacted, That when the said Court shall adjudge the said surplus to be paid to the said widow, she, or some person for her, in addition to the refunding bond required of distributees, shall enter into bond in double the sum so recovered, with two good securities, with condition that said widow shall refund to the next of kin to her deceased husband, the said surplus of said estate, provided they make claim thereof within seven years after such judgment, or within the period hereinafter allowed for the claim of such of said kindred as may be within the disabilities hereinafter provided for. *Provided*, That nothing herein contained, shall affect the right of such next of kin as at the date of said bond may be infants, non compos mentis, or beyond seas, who may sue on said bond within three years next after such disability removed.

An Act to authorise the building of a Toll Bridge over Roanoke River at the town of Halifax, and to incorporate a Company for that purpose.

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 Joseph John Daniel, Andrew Joiner, William B. Lockhart, David Clark, and James Exum, or any three of them, be, and they are hereby appointed Commissioners for receiving subscriptions to the amount of thirty thousand dollars, for the purpose of building a Bridge over Roanoke river at the town of Halifax; and the said Commissioners, or a majority of them, shall prepare books and cause the same to be opened, at such places and under the direction of themselves, or such persons as they may appoint, on or before the first day of March next, and they shall continue open until the first day of July next, unless the said capital sum shall be subscribed before that time, at which time, the said books shall be returned to the Commissioners aforesaid, in the town of Halifax, and at the same time there shall be a general meeting of the said subscribers personally, or by proxy, which

meeting may continue from day to day, until the business thereof be finished: and if it shall appear, that ten thousand dollars, or more, of the capital stock, shall have been subscribed, the said subscribers, their heirs or assigns, from the time of the said first meeting, shall be, and they are hereby declared to be incorporated into a company, by and under the name and style of the "Halifax Toll Bridge Company," and may sue and be sued as such, plead and be impleaded, defend and be defended, and have succession for and during the period herein after limited, and a common seal. And such of the said subscribers as may be present at the said meeting, or a majority of them, are hereby empowered and directed, to elect a President and four Directors, for conducting the business and concerns of the said company for one year, and until the next meeting of the stockholders. Every proprietor of stock, by writing under his or her hand, executed before some Justice of the Peace, may depute any other stockholder to vote for him or her at any general meeting; and the votes and acts of such proxy shall be as effectual, to all intents and purposes, as if the proprietor himself was personally present at the doing thereof.

II. *And be it further enacted by the authority aforesaid*, That if the aforesaid sum of thirty thousand dollars shall not be subscribed, on or before the said first day of July next, the said Commissioners, if directed by a majority of the subscribers at their general meeting, shall again open books of subscription, and keep the same open until the first day of December thereafter, or until the aforesaid sum of thirty thousand dollars shall be subscribed as aforesaid; and if more than the capital stock hereby authorised shall be subscribed, the Commissioners shall strike off from the said subscription, until the capital shall be reduced to thirty thousand dollars; and in striking off subscriptions, they shall begin and strike off a share from the largest subscriptions in the first instance, and continue to strike off one share from all subscriptions under the largest and above one share, until the same shall be reduced to the capital aforesaid.

III. *Be it further enacted*, That the capital sum aforesaid, shall be divided into shares of fifty dollars each, and any person may subscribe for one or more shares, but not for a part of a share. The shares shall be paid for at such times and places, and by such instalments, as the President and Directors of said company shall direct; they first advertising the sum to be paid in each instalment, in the State Gazette, for at least twenty days; and if any person or persons holding any share or shares in said company shall fail to pay for the same, in the manner and at the time prescribed by the President and Directors aforesaid, the said President and Directors may enforce the collection thereof by legal process, or they may expose to public sale the share or shares which such person may hold in the said company, by giving ten days public notice thereof; and if the said shares shall not sell for a sum sufficient to pay the instalments due thereon, the sum deficient may be recovered of the person or persons who own the said stock, and the books of said company shall be good evidence of such sale and of the purchase of such shares.

IV. *And be it further enacted*, That the said President and Directors shall have power to build a gate or gates on the said Bridge to be erected as aforesaid, and to ask, demand and receive from persons passing over said Bridge, the following Toll, to-wit, for four-wheeled carriages of pleasure, seventy-five cents; for wagons, sixty cents; for two-wheeled carriages of pleasure, twenty-five cents; for carts, twenty cents; for a horse and man, ten cents; single horses, five cents; cattle per head, three cents; hogs and sheep, two cents; and foot passengers, five cents.

V. *And be it further enacted*, That the said President and Directors are hereby bound to keep the said Bridge in good and sufficient repair, under the penalty prescribed by law in cases of Roads and Bridges.

VI. *And be it further enacted*, That the Court of Pleas and Quarter Sessions of Northampton county, upon the petition of the said President and Directors, shall order the Sheriff of said county to summon a jury or juries of good and lawful men to lay off a road from the foot of said Bridge, to some convenient place of intersection with the road leading to Northampton court-house, and to assess such damages as the owner or owners of the land through which the said road shall be laid off, may sustain thereby, to be paid by the said corporation; and upon its appearing to the satisfaction of the County Court of Northampton, that the said road is a good and sufficient one and in good repair, the same shall thenceforth become a public road. *Provided*, That the road so to be condemned and laid off shall lead in the straightest convenient direction, on the bank of the river, to the road leading from Halifax to Northampton court-house. *And provided further*, That nothing herein contained shall be construed as to exclude the jurisdiction of the County Court of Northampton over the said road as now established by law.

VII. *And be it further enacted*, That this act shall be in force from and after the ratification thereof.

VIII. *And be it further enacted*, That the corporation hereby created shall terminate and be at an end at the expiration of thirty-six years to be computed from the passage of this act.

IX. *Be it further enacted*, That the President and Directors of said Bridge, shall annually, at the first court to be holden in Northampton county, after the first day of January in every year, return upon oath to the Court of Pleas and Quarter Sessions of Northampton county, an account of the proceeds of the Tolls of said Bridge, during the preceding year, and after defraying the expenses and charges of said year; and if the net proceeds of said Toll, shall exceed fifteen per centum of the capital stock of said company, said President and Directors shall pay the excess over fifteen per centum to the County Trustees of Northampton and Halifax counties, to be applied to the use of said counties in equal moieties. *Provided*, That nothing herein contained shall prevent said President and Directors from reducing their rates of Toll as they think proper.

Eighteenth Congress.

IN SENATE.

WEDNESDAY, FEB. 4.

The Senate was chiefly engaged to day in the consideration of Executive business.

THURSDAY, FEB. 5.

Mr. Hayne presented the memorial of the Chamber of Commerce of Charleston, S. C. praying the establishment of an uniform system of Bankruptcy. Referred to the Committee on the Judiciary.

On motion of Mr. Jackson, the Senate, as in committee of the whole, took up for consideration the bill to authorize the making of a military road from Fort St. Philip, on the river Mississippi, to the English Turn, as an auxiliary to the defence of New-Orleans.

Mr Jackson said, that, as it was objected to this bill, when it was before under discussion, that it involved the question of the constitutional power of Congress to make roads, he was, therefore, about to propose an amendment which would obviate that objection. He believed that the right of Congress to make roads upon its own lands, for military purposes, could hardly be doubted. It was as evident as the right of any individual to dispose of his property for his own purposes. Mr. J. then submitted an amendment, proposing to

limit the road to Johnson's plantation, instead of extending it to the English Turn; thus confining it to the lands owned by the United States.

The bill was then, on motion of Mr. Holmes, of Maine, postponed, & made the order of the day for to-morrow.

FRIDAY, FEB. 6.

The Senate were engaged the greater part of to-day in discussing the bill providing for the building of ten sloops of war.

House of Representatives.

WEDNESDAY, FEB. 4.

The Speaker laid before the House a letter from the Secretary of War, transmitting statements of all contracts made by the War department in the year 1823; which was ordered to lie on the table.

Also a communication from the Secretary of the Treasury, accompanying a statement exhibiting the duties accruing on merchandise imported, and drawbacks payable for merchandise exported, during the years 1820, 1821, and 1822; which were laid on the table.

The House again went into committee of the whole, on the bill making provision for surveys, &c. on roads and canals.

Mr. Rives completed his remarks in opposition to the bill.

Mr. Buckner followed, on the opposite side.

Mr. McDuffie, of South Carolina, next took the floor in support of the bill, who, at 4 o'clock, yielded to a motion for rising—and, the Committee having obtained leave to sit again—the House adjourned.

THURSDAY, FEB. 5.

The House resolved itself into a committee of the whole, Mr. Foot in the chair, on the bill for obtaining the necessary surveys, estimates, &c. for roads and canals.

Mr. McDuffie concluded the speech which he commenced yesterday in support of the bill.

Mr. Spaight, of North-Carolina, then spoke in opposition to the bill.

Mr. Reynolds, of Tennessee, delivered his sentiments in favor of the passage of the bill.

Mr. P. P. Barbour then moved to strike out the enacting clause of the bill.

Mr. Trimble suggested that, as the House was very thin, and some members absent, who probably desired to speak on the subject, it would be proper to have time allowed for a call of the House before the subject was finally acted upon.

A motion being made that the committee rise—

The Chairman decided it to be out of order, the hour prescribed by a rule of the House not having arrived.

Mr. P. P. Barbour, disclaiming all wish on this or any other occasion, to take advantage of a thin House to obtain a vote—more especially as such vote, if now obtained, would not be final on the bill, expressed a wish that, by general consent the committee would rise.

Before the question was taken—

Mr. A. Smyth rose, and commenced a course of remarks in opposition to the bill, which he continued till four o'clock, when he gave way for a motion for rising.

The committee rose accordingly, and, having reported progress, obtained leave to sit again.

FRIDAY, FEB. 6.

Mr. Abbot, of Georgia, in compliance with directions of the Legislature of that state, offered the following joint resolution:

Resolved, &c. That the following amendment of the Constitution of the United States be proposed to the Legislatures of the several states, viz: "That no part of the Constitution of the United States ought to be construed, or shall be construed, to authorize the importation or ingress of any person of color into any one of the United States, contrary to the laws of such state."

The resolution was twice read and referred to a committee of the whole House, on the State of the Union.

The House then went into committee of the whole, on the bill for obtaining the necessary plans, estimates, &c. on roads and canals.

Mr. A. Smyth, of Virginia, resumed, and concluded, the argument he commenced yesterday, in opposition to the bill.

He was followed by Mr. Gazlay, of Ohio, who spoke in support of the principle and expediency of the bill.

Mr. Neale, of Maryland, succeeded Mr. Gazlay, on the same side of the question. When Mr. N. concluded, a general call for the question resounded from all quarters of the House; when Mr. Livingston, of Louisiana, rose, and requested that the Committee might rise.

The Committee then rose, and, having obtained leave to sit again—the House adjourned to Monday.

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January 29. 226FC

OFFICIAL DOCUMENT.

NAVAL PEACE ESTABLISHMENT.

MESSAGE FROM THE PRESIDENT.

To the House of Representatives of the United States:
In compliance with a resolution of the House of Representatives, of the 15th of December last, requesting the President of the United States "to communicate a plan for a Peace Establishment of the Navy of the United States," I herewith transmit a report from the Secretary of the Navy, which contains the plan required.

In presenting this plan to the consideration of Congress, I avail myself of the occasion to make some remarks on it, which the importance of the subject requires, and experience justifies.

If a system of universal and permanent peace could be established, or if, in war, the belligerent parties would respect the rights of neutral powers, we should have no occasion for a navy or an army. The expense and dangers of such establishments might be avoided. The history of all ages proves that this cannot be presumed; on the contrary, that at least one half of every century, in ancient as well as modern times, has been consumed in wars, and often of the most general and desolating character. Nor is there any cause to infer, if we examine the condition of the nations with which we have the most intercourse and strongest political relations, that we shall, in future, be exempt from that calamity, within any period, to which a rational calculation may be extended. And, as to the rights of neutral powers, it is sufficient to appeal to our own experience to demonstrate how little regard will be paid to them, whenever they come in conflict with the interests of the powers at war, while we rely on the justice of the cause and on argument alone. The amount of the property of our fellow-citizens, which was seized and confiscated, or destroyed, by the belligerent parties, in the wars of the French revolution, and of those which followed, before we became a party to the war, is almost incalculable.

The whole movement of our government, from the establishment of our independence, has been guided by a sacred regard for peace. Situated as we are, in the new hemisphere, distant from Europe, and unconnected with its affairs; blessed with the happiest government on earth, and having no objects of ambition to gratify; the United States have steadily cultivated the relations of amity with every power. And if, in any European war, a respect for our rights might be relied on, it was undoubtedly in those to which I have adverted. The conflict being vital, the force being nearly equally balanced, and the result uncertain, each party had the strongest motives of interest to cultivate our good will, lest we might be thrown into the opposite scale. Powerful as this consideration usually is, it was nevertheless utterly disregarded, in every stage of, and by every party to, those wars. To these encroachments and injuries, our regard for peace was finally forced to yield.

In the war to which at length we became a party, our whole coast, from St. Croix to the Mississippi, was either invaded or menaced with invasion; and in many parts, with a strong, imposing force, both land and naval. In those parts where the population was most dense, the pressure was comparatively light; but there was scarcely an harbor or city, on any of our great inlets, which could be considered secure. New York and Philadelphia were eminently exposed, the then existing works not being sufficient for their protection. The same remark is applicable in a certain extent, to the cities eastward of the former; and as to the condition of the whole country southward of the latter, the events which marked the war are too recent to require detail. Our armies and navy signalized themselves in every quarter where they had occasion to meet the gallant foe, and the militia voluntarily flew to their aid, with a patriotism, and fought with a bravery, which exalted the reputation of their Government, & country, & which did them the highest honor. In whatever direction the enemy chose to move with their squadrons and to land their troops, our fortifications where any existed, presented but little obstacle to them. They passed those works without difficulty. Their squadrons, in fact, annoyed our whole coast, not of the sea, but every bay, and great river throughout its whole extent. In entering those inlets, and sailing up them, with a small force, the effect was disastrous, since it never failed to draw out the whole population on each side, and to keep it in the field while the squadron remained there. The expense attending this species of defence, with the exposure of the inhabitants, and the waste of property, may be readily conceived.

The occurrences which preceded the war, and those which attended it, were alike replete with useful instruction as to our future policy. Those which mark the first epoch, demonstrate clearly, that in the wars of other powers, we can rely only on force for the protection of our neutral rights: Those of the second demonstrate, with equal certainty, that, in any war in which we may be engaged hereafter, with a strong naval power, the expense, waste, and other calamities attending it, considering the vast extent of our maritime frontier, cannot fail, unless it be defended by adequate fortifications and a suitable naval force, to correspond with those which were experienced in the late war.

The navy is the arm from which our government will always derive most aid in support of our neutral rights. Every power engaged in war, will know the strength of our naval force, the number of our ships of each class, their condition, and the promptitude with which we may bring them into service, and will pay the due consideration to that argument. Justice will always have great weight in the cabinets of Europe; but in long and desultory wars, exigencies often occur which press so vitally on them, that, unless the argument of force is brought to its aid, it will be disregarded. Our land forces will always perform their duty in the event of war; but they must perform it on the land. Our navy is the arm which must be principally relied on for the annoyance of the commerce of the enemy, and for the protection, with the land forces, for the defence of the country. Capable of moving in any and every direction, it possesses the faculty, even when remote from our coast, of extending its aid to every interest on which the security and welfare of our Union depend. Annoying the commerce of the enemy, and menacing, in turn, its coast, provided the force on each side is nearly equally balanced, it will draw its squadrons from our own; and in case of invasion by a powerful adversary, by a land and naval force, which is always