

# RALPH REGISTER

## AND NORTH CAROLINA GAZETTE.

"Ours are the plans of fair delightful peace, unwarped by party rage, to live like brothers."

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(BY AUTHORITY.)

### PUBLIC ACTS

OF THE STATE OF NORTH-CAROLINA,  
PASSED BY THE GENERAL ASSEMBLY,  
AT THEIR SESSION WHICH COMMENCED ON MONDAY THE NINETEENTH  
OF NOVEMBER, ONE THOUSAND EIGHT HUNDRED AND THIRTY-  
EIGHT, AND ENDED ON TUESDAY THE EIGHTH OF JANUARY,  
ONE THOUSAND EIGHT HUNDRED AND THIRTY-NINE.

(WELDON RAIL ROAD ACT CONCLUDED.)

XXIV. 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, constructing, enlarging, altering or repairing any of their said works, shall by themselves or their officers, do any wanton and wilful injury to such land or its appurtenances, or to the crops growing or gathered, or to any other property thereon, the Weldon Rail Road Company shall pay to the person so injured, double the amount of 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 the Road, or any part of the works connected therewith, he or they shall be responsible to the party injured in the like amount.

XXV. Whenever in the construction of said Rail Road, it shall be necessary to cross or intersect any established Road or Way, it shall be the duty of the said President and Directors so to construct the said Rail Road across such established Roads or Ways, as not to impede the passage or transportation of persons or property along the same, or when it shall be necessary to pass through the land of any individual, it shall also be their duty to provide for such individual a proper way-on way across said Rail Road, from one part of his land to the other: *Provided however*, that in order to prevent the frequent crossing of established Roads or Ways, or in case it may be necessary to occupy the same, it may be lawful for the said President and Directors to change the said Road to points they may deem it expedient to do so, and that for entering upon or taking any land that may be necessary therefor, they shall be, and are hereby authorized to proceed under the provisions of this Act, as in the case of land necessary for their Rail Road: *Provided further*, that previous to the making of any such change, the said Company shall make and prepare a Road equally good with the portion of the Road proposed to be substituted; but nothing herein contained shall be so construed as to make it incumbent on the Company to keep in repair the portion of any Road which they may have changed as aforesaid.

XXVI. The said President and Directors, or a majority of them, shall have power to purchase with the funds of the Company, and place on the Rail Road constructed under this Act, all machines, wagons, vehicles, and carriages and teams of every description whatsoever, which they may deem necessary or proper for the transportation of persons or property, or if they should deem it more expedient to do so, they may contract with any individual or individuals for effecting the transportation on the same.

XXVII. All machines, wagons, vehicles and carriages, purchased as aforesaid with the funds of the Company, or engaged in the business of transportation on said Rail Road, and all the works of 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 the proportion of their respective shares, and the same shall be deemed personal estate, and shall be exempt from any public charge or tax whatsoever.

XXVIII. Upon the Road hereby authorized, the Company shall have the exclusive right of transportation. When it is completed, they shall at all times furnish and keep in good repair the necessary carriages 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 Road, 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 said depot on the Road most convenient for the reception thereof.

XXIX. They shall give no undue preference 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 the 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 to them for transportation, or shall fail to take up or sit down any passenger or 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 double costs shall be recovered.

XXX. So soon as any portion of the Rail Road 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, or by contracts under them, persons and property on the same, and they shall have power to charge for the transportation of persons, goods, produce, merchandize and other articles, and for the transportation of the mail, any sum not exceeding the following rates, viz: on persons, not exceeding eight cents a mile for each person, unless the distance which any person be transported be less than ten miles, in which case the President and Directors may be entitled to make an extra charge of fifty cents for taking up and putting down each person so transported; for the transportation of goods, produce, merchandize, and other articles, not exceeding an average of twelve 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 delivery of produce and other commodities, at their depots and warehouses, rates not exceeding the ordinary warehouse rates charged for such services.

XXXI. *Be it further enacted*, That if the said President and Directors shall deem it advisable to construct the Bridge which may be necessary on the line of their Rail Road, of

sufficient width to admit of the passage of common Roads, as well as their Rail Road, over the same, they may be entitled to demand and receive from all persons, and for wagons, carriages, and for all four and two wheeled vehicles, and for all beasts of burden, sheep and hogs passing the same, the tolls which may be allowed by the Court of Pleas and Quarter Sessions of the County in which the said bridge may be.

XXXII. As soon as ten miles of the Rail Road hereby authorized shall be completed, the President and Directors shall annually or semi-annually declare and make such dividend as they may deem proper, of the nett 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 said Company, in proportion to their respective shares.

XXXIII. An annual meeting of the subscribers to the stock of said Company, shall be held at such time and place in each year, as the Stockholders at their first general meeting, 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 the 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 aforesaid, the proprietors who do attend may adjourn from time to time, until such general meeting shall be had.

XXXIV. In counting all votes of the said Company, each member shall be allowed one vote for each share not exceeding two shares; one vote for every two shares above two and not exceeding ten; 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.

XXXV. The President and Directors shall render distinct accounts of their proceedings and disbursements of money to the annual meeting of the Stockholders.

XXXVI. The works hereby required of the Weldon Rail Road Company, shall be executed with diligence, and if they be not commenced within three 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.

XXXVII. The President and Directors shall cause to be written or printed certificates of the shares of the stock in the 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 the purpose, shall thenceforth become a member of the Company aforesaid, and shall be liable to pay all sums due or to become due upon the stock assigned him: *Provided however*, that such assignment shall in no wise exempt the assignor or his representative from their liability to the said Company for their payment of all such sums, if the assignee or his representative shall be unable or fail to pay the same.

XXXVIII. If any person or persons shall wilfully, by any means whatever, impede or hinder the construction of, injure, impair or destroy any part of the Rail Road to be constructed under this Act, or any of the necessary works, machines, wagons, vehicles, carriages or other property belonging to the said Company, or shall place any obstruction on said Road, 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 in which the offence may be committed, shall be fined and imprisoned at the discretion of the Court.

XXXIX. *Be it further enacted*, That when the General Assembly may be of the opinion that the charter hereby granted shall have been violated, it may be lawful by joint resolution of the two Houses, to direct the Attorney General, with such assistant Counsel as the Governor or Legislature may think proper to engage, to issue a writ of *scire facias*, returnable before the Judges of the Supreme Court, calling upon the said corporation to show cause why their charter shall not be forfeited, subject to the same proceedings as are now prescribed by law in case of other corporations. Their books shall at all times be open to the inspection of a Committee of the General Assembly appointed for the purpose, and the President of said Company shall biennially make a report to the Legislature, on or before the third week of their Session, of their receipts and expenditures, and of such other of their proceedings as he shall deem proper.

XL. *Be it further enacted*, That any Rail Road which may hereafter be constructed by the State or by any Company incorporated by the Legislature, shall be at liberty to cross the Road hereby allowed to be constructed upon a level or otherwise as may be advantageous: *Provided*, that the free passage of the Weldon Rail Road is not obstructed.

XLI. *Be it further enacted*, That whenever the Rail Road shall be so crossed or approached by any other Rail Road incorporated by the State, the said Weldon Rail Road Company may erect a depot at or near the point of intersection, where they may receive and deliver passengers and freight, and take therefor the same rates of compensation, and be subject to the same regulations as other depots; and if they fail or refuse to erect such depot, the State or Company owning such intersecting Road, may erect one, and the Company hereby incorporated shall receive and deliver passengers and freight at such depot, under the same regulations as aforesaid, unless the same shall be rendered impracticable by the situation of the Rail Road at such place.

XLII. *And be it further enacted*, That this Act shall take effect and be in force from and after its ratification, and shall endure and continue for the term of ninety years.

[Ratified 8th January, 1839.]

### CHAPTER XXXI.

AN ACT to prevent the malicious obstruction of Rail Roads. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same*, That if any person or persons shall wilfully and maliciously put or place any stone, earth, timber, wood, or any other thing whatever, upon any Rail Road in

this State, or upon any Bridge or Viaduct belonging to, and forming part thereof; or, shall wilfully and maliciously cut, break, remove, displace, or in any other manner, or by any means whatever, destroy or injure any rail or sill of any such Rail Road, or any such Bridge or Viaduct, or any part thereof, or shall, by any ways or means whatever, injure, destroy, or obstruct any such Rail Road, Bridge or Viaduct, as aforesaid, the party so offending, shall, on conviction thereof, be fined in any sum not exceeding one thousand dollars, be imprisoned for any time not exceeding three years, and find securities for being of good behaviour for not less than one, nor more than seven years, from and after the expiration of the said imprisonment, in such sum as the Court having cognizance of the same shall direct. And if it shall happen that by reason of the commission of the offences aforesaid, or any one of them, any Engine or Car shall be thrown off the track of any such Rail Road, or shall be stopped or obstructed so that any person or persons shall thereby be instantly killed, or so wounded or hurt as to die therefrom, within six calendar months thereafter, or shall thereby be maimed or lose the use of any limb or member, then, and in every such case, the party so offending, his aiders, abettors, helpers, counsellors and advisers, shall be deemed guilty of felony, and shall suffer death, as in case of felony, without the benefit of clergy.

II. *And be it further enacted*, That this Act shall go into operation and take effect from and after the first day of March next, and not sooner.

[Ratified 7th January, 1839.]

### CHAPTER XXXII.

AN ACT to improve a part of the State Road leading from the Town of Franklin, in Macon County, across the Nantahala and Valley River Mountain, to the new Town site called Murphy.

*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 Governor be, and he is hereby authorized to appoint some suitable person as Commissioner, whose duty it shall be to examine that part of the new State Road leading from Franklin in Macon County, to the Town site called Murphy, from the eight to the twenty-nine mile post, a distance of twenty-one miles, and after due examination thereof, shall determine and fix on the length of sections which shall not exceed the number determined upon by John L. Smith, the original Commissioner for said Road; and the Commissioner so appointed shall receive for his services and expenses, two dollars per day for each day he may be in actual service for the purpose aforesaid, to be paid out of the fund hereinafter appropriated for the improvement of said Road.

II. *Be it further enacted*, That when said Road shall be laid off in sections of convenient extent, the Commissioner shall give thirty days public notice, by advertising at the Court House, and two other places in each of the Counties of Haywood and Macon, of the time and place for letting out the contracts for improving said Road, which shall be done in the Town of Franklin, and he shall let the contracts out by sections at public auction, to the lowest bidder.

III. *Be it further enacted*, That the Commissioner shall take from each contractor a bond with approved security, payable to the State of North Carolina, for the faithful execution of the work according to specification, one item of which shall be, that there shall not exist on any part of said Road, a greater rise than one foot in eight, and on failure of any contractor to execute his work according to the terms specified in the contract, then it shall be the duty of said Commissioner to commence suit on the bond, and prosecute the same to judgment and execution, and the money thus collected, shall be applied to the improvement of said Road.

IV. *Be it further enacted*, That for the purpose of improving said Road, a sum not exceeding two thousand dollars be, and the same is hereby appropriated, payable in bonds accruing from the sale of the Cherokee Lands, and the Governor is hereby authorized to draw his warrant or warrants on the Public Treasurer in favor of the Commissioner, for such portion of this appropriation as to him may seem necessary and proper.

V. *Be it further enacted*, That said Commissioner, before entering upon the duties of his commission, shall execute to the State of North Carolina a bond with approved security, conditioned for the faithful application of the funds placed in his hands for the improvement of the Road, and on the completion thereof, shall report to the Governor of the State the character of the improvement and vouchers for the expenditure of all sums disbursed by him.

VI. *And be it further enacted*, That said Commissioner shall have said Road completed by the fifteenth day of July, one thousand eight hundred and thirty-nine, and on the completion of the Road, shall carefully examine the same, receive it, if done according to contract, and thereupon report to the Governor as by the foregoing section.

[Ratified 4th January, 1839.]

### CHAPTER XXXIII.

AN ACT to amend an Act, passed at the present Session, entitled "An Act to extend the time for recording Grants, Deeds, Mesne Conveyances," &c.

*Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same*, That the provisions of the above recited Act shall not be so construed as to give any person power to record Grants from the State for any of the Swamp Lands which have been, or may be surveyed by direction of the Literary Board, with a view to draining the same.

[Ratified 8th January, 1839.]

### CHAPTER XXXIV.

AN ACT to extend the time for registering Grants, Mesne Conveyances, Powers of Attorney, Bills of Sale and Deeds of Gift.

*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 Grants of land in this State, all Deeds of Mesne Conveyance, Powers of Attorney, under which any lands, tenements or hereditaments have been or may be conveyed, all other Powers of Attorney, which are required to be proved and registered by any Act of the General Assembly, all Bills of Sale, Deeds of Gift, already proved, or which may hereafter be proved, shall and may, within two years after the passage of this Act, be admitted to registration, under the

same rules, regulations and restrictions as heretofore appointed by law; and said Grants, Deeds of Mesne Conveyance, Powers of Attorney, Bills of Sale, and Deeds of Gift, shall be as good and valid as if they had been proved and registered within the time heretofore allowed: *Provided*, that nothing herein contained shall be construed to extend to mortgages or to conveyances in trust.

[Ratified 4th December, 1838.]

### CHAPTER XXXV.

AN ACT to amend an Act, entitled "An Act concerning the action of Replevin."

*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, upon the trial of any action of Replevin, for any slave or slaves, the Plaintiff or Plaintiffs shall recover, final judgment shall be rendered against the Defendant and his security, in case he shall have given a bond, as required by the fourth section of an Act concerning the action of Replevin, for such value as shall be assessed by the Jury, upon such slave or slaves, with a condition, to be discharged by the surrender of such slave or slaves, demanded by the writ, and the payment of such damages as may be adjudged by the Court, for the taking and detention of such slaves; which damages, for the taking and detention aforesaid, the Court shall assess double the amount assessed by the Jury.

[Ratified 8th January, 1839.]

### CHAPTER XXXVI.

AN ACT to amend the Revenue Laws of this State.

*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 several Courts of Record, held by the Justices of the Peace within their respective counties in this State, shall have power, and are hereby required, on application in behalf of any person liable to taxes upon lands in such county, and which shall not have been valued and returned as the law directs, to value the same in like manner as the Boards of Valuation in such county are required to value taxable lands, and such valuations, it shall be the duty of the Clerk to record in like manner, and under the same rules, regulations and restrictions, as other taxable lands within such county.

II. *Be it further enacted*, That where any of the County Courts in this State shall have appointed their Boards of Valuation subsequent to the time required by law, and in pursuance thereof, the lands within such county shall have been valued, returned and recorded as the law directs, such valuation, and all other proceedings had thereupon conformably to law, are hereby declared to be good and available to all intents and purposes, as though the same had been done in due time, and shall be liable for taxes, and subject to the same rules, regulations and restrictions, as other lands liable for taxes are, within this State.

III. *Be it further enacted*, That said Courts, within their respective counties, or any Justice, within his district, appointed to receive taxables for such district, shall, either of them, have power, and are hereby required, on application of any person liable to taxes on lands, within said county or district, to apportion the valuation or assessment thereof, in such manner that the several persons liable to taxes thereon shall be subject to his, her or their share of taxes, and no more, and such apportionment to be listed accordingly: *Provided*, it shall be the duty of said Justice to summon two disinterested freeholders, who, first being sworn, shall act with said Justice in such apportionment.

IV. *Be it further enacted*, That the said Courts shall have power to receive returns of taxables in their several counties, at any time before the first day of April in each and every year—the person so applying to such Court, and having his taxables listed, paying to the Clerk forty cents for receiving and recording the same.

V. *Be it further enacted*, That said Courts shall hear and determine upon any and all applications within their several counties, to be relieved from a double tax already incurred, or which may hereafter be incurred, within their respective counties, and to remit the same, and if paid, to order the Clerk to issue a certificate of the public or State tax, to the persons thus relieved, which certificate shall be receivable by the collector, in behalf of the holder thereof, as so much of his, her or their next year's tax, and not after, and also a like certificate of the amount of county and poor double tax so paid, which shall be receivable in like manner as the above tax, or refunded out of the county fund, as the said Court may in their discretion order and direct, for which said Clerk shall receive ten cents on each certificate, to be paid by such relieved party, which certificates shall be allowed the Sheriff, in settlement of his public and county taxes.

VI. *Be it further enacted*, That such returns of taxables as shall be made under the provisions of this Act, to the Clerk of any of said Courts, and which shall be made after such Clerk shall have recorded his lists of taxes, or set up his list in the Court House, such Clerks shall record said returns as supernumeraries, and deliver out duplicates, and make returns thereof as other taxables.

VII. *Be it further enacted*, That where any of the County Courts have failed to appoint a Board of Valuation, according to the provisions of the Revenue Act of one thousand eight hundred and thirty-six, but have appointed Justices in the several districts of their county, to take the list of taxables property, and all persons liable for taxes have given in their list under the old assessments, the same is hereby declared to be lawful and binding, as though a Board of Valuation had been appointed, and the land given in under such valuation.

VIII. *Be it further enacted*, That where any Court may have failed to appoint a Board as aforesaid, the time for appointing such Board of Valuation is hereby extended until the first Court that may happen after the first day of May next, and the acts of such Board, thus appointed, shall be as valid, as though they had been appointed in one thousand eight hundred and thirty-six, and the persons whose lands are thus valued shall hereafter give in their list of lands according to the valuation thus made.

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

[Ratified 7th January, 1839.]