

PRIVATE LAWS
OF THE
STATE OF NORTH CAROLINA,
PASSED BY THE
GENERAL ASSEMBLY
AT ITS
SESSION 1870-'71.

RALEIGH:
JAMES H. MOORE, STATE PRINTER AND BINDER.
1871.

SEC. 12. That the mayor elect, before entering into office, To take oath. shall go before some person authorized to administer an oath, and take the oath of a justice of the peace, and he shall hold an election as provided in section three of this act, on the first Monday in May, one thousand eight hundred and seventy-two, and each successive year.

SEC. 13. That the constable elect, before entering into Constable's oath. office, shall go before some person authorized to administer an oath, and take the oath usually taken by constables.

SEC. 14. That all laws and clauses of laws heretofore Repealing clause. enacted coming in conflict with this act are hereby repealed.

SEC. 15. This act shall be in force from and after its ratifi- When act to be in force. cation.

Ratified the 27th day of February, A. D. 1871.

CHAPTER XXXII.

AN ACT TO INCORPORATE THE TOWN OF LINCOLNTON.

SECTION 1. *The General Assembly of North Carolina do* Corporate name. enact, That the commissioners and their successors in office, chosen and elected as hereinafter provided, be and are hereby created a corporation and body politic, under the name of the "Board of Commissioners of the town of Lineolnton," and they shall have full power to make all by-laws, rules, regulations and ordinances for the benefit and good government of said town, not inconsistent with the constitution of the United States or of the state of North Carolina; to contract and be contracted with, sue and be sued, to purchase, Powers and privileges. hold and convey real or personal estate; and all other rights and powers necessary or usually pertaining to municipal corporations.

SEC. 2. Said town shall be divided into four wards by the Town wards. intersection of the two main streets, to be known as follows, to-wit: That part lying northeast of said intersection, as Boundaries.

Representation.

ward number one; that part lying southeast, as ward number two; that part lying southwest, as ward number three; and that part lying northwest, as ward number four. Two commissioners shall be elected from each ward, and one intendant from the town at large; all of whom shall have resided in the state twelve months, and in the county thirty days next preceding the day of election, and be of the full age of twenty-one years, and male citizens. When a vacancy shall occur by resignation or otherwise, the board of commissioners shall fill the vacancy.

Sheriff to hold election.

SEC. 3. That the sheriff of Lincoln county, or deputy, shall advertise for an election of intendant and commissioners, at least ten days before the first Monday of every May, and shall attend at the courthouse on said day of election at the hour of nine in the morning and open the polls of election in the presence of three inspectors, by him appointed, and legally qualified, who shall receive the tickets and put them in their respective boxes, provided for that purpose, to-wit: one box for intendant and another for commissioners. One inspector, personally or by an agent chosen by him and legally qualified, shall take down a list of the persons voting for intendant, and the other two inspectors shall in like manner take down a list of the persons voting for commissioners. At the hour of five in the evening, the sheriff or deputy, in the presence of the inspectors, shall close the polls, and open the said boxes containing the ballots, examine and number the same, and shall declare the person receiving the highest number of votes in the intendant's box, the intendant of the town of Lincoln, and the two persons receiving the highest number of votes in their respective ward, commissioners of the town of Lincoln for one year, from the third day next after the election; *Provided*, That in case of a tie, the sheriff or deputy shall give the casting vote; *And provided further*, That in case the sheriff or deputy refuse or neglect to hold said election, he shall forfeit and pay to the use of the corporation five hundred dollars.

SEC. 4. That on or before the third day after their election, the intendant and commissioners so elected, shall meet at the courthouse, or other place by them appointed, and take an oath to support the Constitution and laws of this State and the United States, and to discharge the duties imposed upon them by virtue of their office with fidelity, and to the best of their ability ; which oath shall be administered by some justice of the peace or the former intendant.

SEC. 5. It shall be the duty of the intendant to preside, if present, at all meetings of the board of commissioners, to call meetings of the board when he thinks proper, and when required in writing by three commissioners ; and if he refuses when so required, they may of themselves convene a meeting, and in case of the voluntary absence of the intendant, when his presence is necessary to make a legal assembly, or if he refused to perform any duty which said board shall require of him by ordinance, he shall be liable to indictment in the superior court for said county as for a misdemeanor, and on conviction, may be fined at the discretion of the court ; the fine to go to the use of the town. And he shall see that the laws of the state, and the ordinances of the board of commissioners are obeyed and executed within the town. He shall be a justice of the peace during his term of office, and shall perform all the duties required of such an officer by the laws of the state. Any person against whom he shall give judgment, or pass sentence by virtue of the power herein granted, or by any ordinance of the board of commissioners who shall feel himself aggrieved thereby, may appeal to the superior court of the county, as provided in such cases in the courts of common law. And the intendant shall keep a faithful record of all process, returns, judgments, sentences and all proceedings therein before him, in a book provided for the purpose, and deliver the same to his successor ; and in all cases when the person shall be unable to pay the fine or penalty imposed, he shall have power to sentence such person to confinement and hard labor within the corporate limits, for a term not exceeding three months ; and in all cases of appeal, he shall return all the original

Oath of office.
Duties of Intendant.

papers, together with his judgment therein, to the court to which the appeal was granted. In all civil and criminal cases, he shall be entitled to demand and receive the same fees given by law to other justices of the peace for similar services, which may be collected in the same manner.

Meetings of commissioners.

SEC. 6. The board of commissioners shall meet at the courthouse or other place appointed by them, on the first Friday night of each month, and such other times as may be agreed on from time to time by them, and a majority shall constitute a quorum to transact business. The intendant shall have no voice except in a case of tie vote at the meetings of the board.

Clerk and Treasurer.

SEC. 7. At the first meeting of the board of commissioners, or as soon thereafter as practicable, they shall appoint some citizen of the town to the office of town clerk and treasurer, who shall be allowed a reasonable salary to be fixed by the board, and who shall hold his office during the official term of the board, subject however, to be removed at any time for misbehavior. He shall give bond payable to the board of commissioners of the town of Lincolnton, in a penal sum to be fixed by the board, conditioned that he shall keep regularly and faithfully the proceedings of the board at their meetings, keep all papers, books and articles committed to his custody during his term of office, and to deliver them to his successor; and that he shall receive and faithfully keep all moneys which shall be paid to him for the use and on behalf of the board of commissioners, and disburse the same according to orders given, in obedience to the direction of the board appearing on their minutes. He shall keep a fair and correct account of all moneys so received and disbursed by him in a book to be kept for that purpose, and he shall submit said accounts to the board whenever required; and he shall pay to his successor all moneys in his hands belonging to said board, and faithfully perform all duties imposed on him as clerk and treasurer by the laws and ordinances of said board; and the book of proceedings of the board of commissioners, kept by the clerk and treasurer, shall be evidence in any court of record. The said clerk

Duties of clerk.

shall make out a roll of the whole number of the qualified voters of the town, from the tax lists, which roll he shall exhibit to the board at least ten days before such election, a copy of which roll he shall deliver to the inspectors holding the election on the day of election of commissioners, and no person shall be allowed to vote whose name does not appear on said roll.

SEC. 8. The board of commissioners shall appoint within ten days after their election, or as soon thereafter as may be, a fit person to the office of town constable, who shall be a qualified voter of the town, who shall give bond with good sureties in a penal sum to be fixed by and payable to the board of commissioners, with condition that he will diligently collect all taxes imposed by said board, and faithfully pay to the clerk and treasurer all sums of money collected or received by him to or for the use of the board, and that he will faithfully discharge all other duties imposed on him by the laws and ordinances of said board, and obey and diligently execute all lawful precepts to him directed by said board. He shall receive the same fees for his services as other constables, and such other compensation as may be allowed by the board. He shall hold his office during the term of the board appointing him, subject to be removed at any time for misbehavior. Town constable.

SEC. 9. It shall be the duty of the town constable to apprehend all disorderly persons whom he shall find disturbing the public peace, or exhibiting themselves drunk, or whom he shall have just cause to suspect of an intention to commit a felony, and he may imprison such persons until they can be brought before the intendant or justice of the peace for trial, or they may give bail for their appearance before said intendant or justice of the peace, the bond to be payable to the board of commissioners, and in case the person bailed do not appear, such action shall be taken on the bond as is usual in courts of record before the intendant or justice of the peace. It shall be the duty of the constable to preserve the peace by the suppression of disturbances, and the apprehension of all offenders, and to that end, he is hereby clothed Duties of constable.

with all power now vested in sheriffs and constables, and also the same powers in the execution of process directed to him, as that vested in sheriffs in similar cases. He shall have power to call as many persons to his assistance as the board may direct. Any resistance to or assault on said constable or any member of the police called to his assistance as aforesaid, while in discharge of his or their duties, shall be indictable and punishable in the superior court as in other cases of public officers.

Assessors of real estate.

SEC. 10. The board of commissioners shall annually appoint three citizens of said town, who shall each have a freehold in said town assessed for taxation at not less than three hundred dollars, whose duty it shall be to assess the real value of all town lots within the corporate limits of the town, which shall be taxed according to said valuation. Said assessors before discharging the duties assigned them, shall take an oath before the intendant that they will fairly and impartially assess the value of all lots within said town for which they shall be allowed a compensation by the board.

Listing taxes.

SEC. 11. The clerk and treasurer shall, at such time as shall be prescribed by the board, make advertisement, notifying all persons residing or owning property in the town on the first day of April, who own or possess taxable property in the town on the day aforesaid, to return to him within ten days from the date of said advertisement, a list of their taxable property in said town; said list shall state the number of lots and parts of lots, the number of taxable polls residing on the lots, and all other property now made or that hereafter may be made taxable by the revenue laws of the state, and the list so returned to the clerk and treasurer shall be sworn to before him, and he is hereby authorized to administer the oath to all persons making such returns, and the said list shall be filed, and from the same the clerk and treasurer shall, within ten days after the time for taking said list shall expire, make out in a book kept for that purpose, an alphabetical list of the persons and owners of property who have so made their returns, in the same manner as tax lists are made out by law for the collection of

state taxes, and shall deliver to the town constable a certified copy of the same for the collection of the taxes therein returned, and the said lists shall be in the nature of a judgment and execution for the taxes therein mentioned.

SEC. 12. The clerk and treasurer shall, within ten days from the return of the tax lists, make out, to the best of his knowledge and belief, a list of taxable polls and owners of taxable property in the town who shall have failed to return a list as hereinbefore required, and said delinquents shall forfeit and pay a sum to be fixed by the board, not exceeding a double tax, which penalty may be received as other fines and penalties imposed by the board before the intendant or a justice of the peace. Delinquent tax payers.

SEC. 13. The board of commissioners shall have power to levy annually and cause to be collected the taxes necessary to support the town government, which tax shall be assessed according to the provisions of the constitution of the state and the revenue laws of the state consistent therewith, as to the rule of uniformity of taxation. The said taxes shall in no case exceed per centum the county taxes, and shall be levied on property and polls taxed by the state. In addition thereto, there shall be levied and collected the following taxes, to-wit: first, on every pistol, bowie-knife, dirk, sword, cane or other deadly weapon worn upon the person, except a pocket-knife, without the special permission of the board, a tax not exceeding five dollars; second, on all keepers of eating houses, fish, meat or vegetable, a tax not exceeding one per cent. on cost; third, on every keeper of a house of entertainment or boarding house, or livery stable keeper, a tax not exceeding twenty dollars; fourth, on all peddlers of articles of any kind, organ grinders and itinerant musicians, a tax not exceeding fifteen dollars; fifth, on every bowling alley, billiard table, and all gaming establishments, a tax not over fifty dollars, reserving the right to remove them at any time as nuisances; sixth, on every agency of an incorporated company, on every broker, express company, taker of likeness by whatever act, a tax not over twenty dollars; seventh, on every company of circus riders, a tax not over twenty Annual tax levy.
Special taxes.