

PUBLIC LAWS

OF THE

STATE OF NORTH CAROLINA,

PASSED BY THE

GENERAL ASSEMBLY,

AT ITS

SESSION OF 1860-'61:

TOGETHER WITH THE COMPTROLLER'S STATEMENT OF PUBLIC
REVENUE AND EXPENDITURE.

RALEIGH:

JOHN SPELMAN, PRINTER TO THE STATE.

1861.

of said town lots, or so much thereof as may be necessary, to the payment of the debt created for the same, and if the proceeds of the sale of said lots shall be insufficient to pay said debt, it shall be the duty of the court of pleas and quarter sessions to levy a tax as in other cases, to make up such deficiency; *Provided, nevertheless,* That said commissioners, if they deem it proper so to do, may, as the work progresses in the construction of said court house and jail, advance to the contractors a portion of the price agreed upon.

Arrearages of Taxes.

SEC. 17. *Be it further enacted,* That this act shall not be so construed as to prevent the sheriff or tax collector of Cherokee county from collecting any arrears of taxes that such officer could have collected before the passage of this act, or any taxes that may be levied before the organization of said county of Clay.

SEC. 18. *Be it further enacted,* That this act shall be in force from and after its ratification. [*Ratified the 25th day of February, 1861.*]

Chap. 8. AN ACT TO LAY OFF AND ESTABLISH A NEW COUNTY BY THE NAME OF MITCHELL.

Limits.

SECTION 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 a county by the name of Mitchell shall be and the same is hereby laid off and established out of portions of Yancey, Watauga, Caldwell, Burke and McDowell counties with the following boundaries: beginning at the top of Grandfather mountain, thence with the top of the Blue Ridge to the Bear Wallow Gap, thence to the Three Knobs, thence to Big Crabtree creek, thence down said creek to Toe river, thence down said river to the Tennessee line, thence with the Tennessee line to Elk river, thence to place of beginning; and the said county of Mitchell, when it is laid off and established, shall be, and it is hereby, invested with all the rights, privileges and immunities with the other counties in this State. [*Ratified the 16th day of February, 1861.*]

AN ACT SUPPLEMENTAL TO AN ACT PASSED AT THE PRESENT SESSION OF THE GENERAL ASSEMBLY, ENTITLED "AN ACT TO LAY OFF AND ESTABLISH A NEW COUNTY BY THE NAME OF MITCHELL." *Chap. 9.*

SECTION 1. *Be it enacted by the General Assembly of the State of North-Carolina, and it is hereby enacted by the authority of the same,* That the county of Mitchell shall be and is hereby invested with all the rights of the other counties of this State, except as is hereafter provided.

SEC. 2. *Be it further enacted,* That all the justices of the peace and officers of the militia, and constables who reside within the limits of the county of Mitchell shall continue to hold and exercise all the official powers and authorities in and for said county that they have heretofore held and exercised in and for the counties of Yancey, McDowell, Caldwell, Burke and Watauga, respectively; *Provided,* That the authority given by this act to constables shall cease and determine at the first county court to be held for said county of Mitchell, under the same penalties and liabilities as they are now subjected to by law in other counties in this State.

Justices of the Peace, Militia officers and Constables.

SEC. 3. *Be it further enacted,* That the counties of Yancey, Watauga, McDowell, Burke and Caldwell shall continue to be represented in the General Assembly as they have heretofore been, and that all qualified voters taken from said counties, shall continue to vote with the counties to which they have heretofore been attached, until it shall be otherwise provided by law, and elections shall be held until the first session of the General Assembly which shall be had hereafter for members of both houses of the General Assembly and for Congress, by the sheriff or other returning officers of Yancey, Watauga, Caldwell, Burke and McDowell counties, in all the territory heretofore comprised in said counties, at the times and places, and under the same rules, regulations and restrictions as have been made or may hereafter be made by law, and the certificates of said sheriff or other returning officer to the result of said elections, shall be as valid to all purposes as if the county of Mitchell had never been established.

Representation.

Court of Pleas
and Quarter
Sessions.

SEC. 4. *Be it further enacted*, That a court of pleas and quarter sessions shall be held, and the same is hereby established in and for the county of Mitchell, to be held by the justices for said county on the tenth Monday after the fourth Monday in March, June, September and December; the first session of which shall be held at the house of Eben Childs, on the tenth Monday after the fourth Monday in March, when the court aforesaid, a majority of the justices being present, shall elect a clerk, a sheriff, a coroner, a register and entry taker, a surveyor or surveyors, county solicitor, constables and all other officers for said county, who shall enter into bonds, as required by law, and shall hold and continue in said offices until successors to them are duly chosen and qualified according to the acts of the General Assembly in such cases made and provided; and the said court at the first session may appoint the place of its future sessions until a court house shall be erected for said county.

Possess same
powers with
other County
Courts.

SEC. 5. *Be it further enacted*, That the court of pleas and quarter sessions established by this act, shall possess the same power, authority and jurisdiction as is possessed and exercised by other county courts in this State, and shall have exclusive jurisdiction of all crimes committed in the county of Mitchell, of which other county courts in the State have jurisdiction, until a superior court of law is established for said county; and all suits of law now pending in the county courts of said counties against the citizens of Mitchell county shall be transferred to the county court of Mitchell county, in the manner that suits are now transferred from one county to another, and all appeals from the county courts of Mitchell shall be sent to the superior courts of Yancey or Watauga, at the discretion of the courts of pleas and quarter sessions for said county of Mitchell.

Superior Court
cases tried in
Counties from
which made
until Superior
Court establish-
ed for Mitchell.

SEC. 6. *Be it further enacted*, That all criminal offences which may be committed in the county of Mitchell, which are cognizable in the superior courts of law only, shall be and continue under the jurisdiction of Yancey, McDowell, Watauga, Burke and Caldwell, as if the act erecting the

county of Mitchell had never been passed, until a superior court shall be established for the county of Mitchell.

SEC. 7. *Be it further enacted*, That all persons who may be liable to imprisonment under any process, civil or criminal, in Mitchell county, before the completion of the jail therein, may be committed to the jails of Caldwell, Burke, Yancey, McDowell or Watauga counties.

Jails to which
prisoners to be
committed.

SEC. 8. *Be it further enacted*, That all process issued from the superior courts of Yancey, McDowell, Burke, Caldwell or Watauga counties, against any of the citizens of Mitchell, shall be valid without the seal of office aforesaid until a superior court is erected for Mitchell county, and all process so issued after the tenth Monday after the fourth Monday in March next, shall be directed to and executed by the sheriff of Mitchell county.

Superior Court
process.

SEC. 9. *Be it further enacted*, That Thomas Farthing, of the county of Watauga, John W. McElroy, of Yancey, Joseph Conley, of the county of McDowell, and Alonzo C. Avery, of the county of Burke, and David Proffitt, of the county of Yancey, John Harden, of Watauga, and James Bailey, sen., of Yancey county, be and they are hereby appointed commissioners to select and determine upon a permanent seat of justice in said county, who shall locate the same at such place as they may think best and most convenient to a majority of the citizens of said county, taking into consideration also the extent of territory; and said commissioners are authorized to purchase or otherwise procure a tract of land not less than fifty acres, whereon which said site shall be located, the title of which shall be made to the chairman of the county court of Mitchell county and his successors in office, to the use of said county.

Commissioners
to locate county
seat.

SEC. 10. *Be it further enacted*, That said commissioners, at some day between the first of May and the first of June next, [be required] to meet together and select a site for said town, and a majority of said commissioners shall have power to select said site, for which they shall be compensated by the county court of Mitchell by the payment of not less than one dollar and fifty cents per day;

When Commis-
sioners shall
meet.

Provided, They shall not be engaged therein more than four days; and if more than that time is consumed they shall be paid at the discretion of the court, a majority of the justices being present.

Commissioners to lay off lots.

SEC. 11. *Be it further enacted*, That Tilmon Blalock, J. A. Person and Ebben Childes, and Jordan Harden be and they are hereby appointed commissioners to lay off the lots of said town, and said town shall be called and known by the name of Calhoun.

Lots to be sold.

SEC. 12. *Be it further enacted*, That said commissioners, after designating such as shall be retained for public uses, after advertising thirty days in such manner and at such places as said commissioners shall think proper, shall expose to public sale, to the highest bidder, said lots, upon a credit of one and two years, and shall take bonds and approved security for the purchase money, payable to the chairman of the county court and his successors in office; and when said money shall be paid, the chairman or successor aforesaid shall make title to the lots aforesaid to the purchaser, his heirs or assigns, which money, or so much thereof as may be necessary, shall be appropriated to the construction of the public buildings.

Sheriffs of counties from which taken to collect arrears of taxes, &c.

SEC. 13. *Be it further enacted*, That nothing herein contained shall prevent the sheriff of the different counties from which the county of Mitchell is taken, from the collecting of all such taxes as have been heretofore laid by the county courts of said counties before the first day of January, 1861; and the county court of said Mitchell county shall, at its first session, a majority of the justices of said county being present, have full power to lay taxes for all purposes necessary to carry this act into full operation, and to give to the county of Mitchell all rights, privileges, powers and immunities which other counties in this State may have. [*Ratified the 20th day of February, 1861.*]

AN ACT TO LAY OFF AND ESTABLISH TRANSYLVANIA COUNTY. *Chap. 10.*

SECTION 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 a county by the name of Transylvania be laid off and established out of the counties of Henderson and Jackson with the following boundary, to wit: beginning at the standing stone, on the South Carolina line, near the head waters of Green river and Little river, and runs with the Blue Ridge to Green river gap, thence a straight line to the top of Hickory mountain, thence a straight line to the top of the mountain, west of William Sintel's, thence with the main ridge to the top of the high point on the mountain near the Hadden farm, thence a straight line to the mouth of the branch between the Hadden and Justus farms, thence down the French broad river to the mouth of Bryson's creek, thence a straight line to the top of Pisgah mountain, thence a west direction with the Haywood line to the Jackson line to a point on the Blue Ridge between the head of Indian creek and Toxaway, and running with the dividing ridge between Indian creek and Toxaway river to said river, thence south to the South Carolina line, thence with the South Carolina line to the beginning.

SEC. 2. *Be it further enacted*, That this act shall be in force from and after its ratification. [*Ratified the 15th day of February, 1861.*]

AN ACT SUPPLEMENTAL TO AN ACT PASSED AT THE PRESENT SESSION OF THE GENERAL ASSEMBLY, LAYING OFF AND ESTABLISHING THE COUNTY OF TRANSYLVANIA. *Chap. 11.*

SECTION 1. *Be it enacted by the General Assembly of the State of North-Carolina, and it is hereby enacted by the authority of the same*, That the county of Transylvania be and is hereby invested with all the rights, privileges and immunities of the other counties in this State, except as is hereinafter provided.

Chap. 20. AN ACT TO REPEAL AN ACT APPROPRIATING TWO THOUSAND FIVE HUNDRED DOLLARS FOR LIGHTING AND HEATING THE CAPITOL.

Repeals act.

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 act passed at the regular session of this General Assembly appropriating two thousand five hundred dollars for lighting and heating the capitol, be, and the same is hereby repealed. [Ratified the 9th day of May, 1861.]

Chap. 21. AN ACT TO REPEAL AN ACT, PASSED AT THE SESSION 1860-61, ENTITLED AN ACT TO APPOINT A TAX COLLECTOR FOR THE COUNTIES OF WAYNE, HAYWOOD, &C., AS TO CERTAIN COUNTIES, AND AMEND THE SAME.

Repeals act as to certain counties.

SECTION 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 so much of an act, entitled an act to appoint a tax collector for the counties of Wayne, Haywood, &c., at the session 1860-'61, as applies to the counties of Chatham, Orange, Iredell, Davidson, Union, Robeson, Surry, Anson and Watauga, be, and the same is hereby repealed, and the sheriffs of these counties shall have the same power and authority to collect all taxes and be under the same obligations in respect thereto as if the said act had never passed.

Tax collectors.

SEC. 2. *Be it further enacted,* That all tax collectors, appointed or to be appointed by virtue of the said act, or by virtue of another act, passed at the same session, extending the provisions of said act to other counties, shall have the same power and authority to collect all taxes, of every description, which sheriffs had before the said act was passed.

Justices may appoint tax collectors.

SEC. 3. *Be it further enacted,* That the justices of the county courts of the counties of Greene and Hertford, may appoint a tax collector for said counties, at the next county court, to serve until the regular time prescribed for the appointment in said act, and that all appointment of tax collectors, heretofore made under the authority of said act, whether made

at the first or second term of the county court, after the first day of January, 1861, be, and the same are hereby confirmed.

SEC. 4. *Be it further enacted,* That an act, passed at the session 1858-'59, authorizing the appointment of a tax collector for the county of Robeson, be, and the same is hereby repealed.

SEC. 5. *Be it further enacted,* That this act shall be in force from and after its ratification. [Ratified the 11th day of May, 1861.]

AN ACT TO AMEND AN ACT ENTITLED AN ACT TO ESTABLISH A NEW COUNTY BY THE NAME OF MITCHELL. Chap. 22.

SECTION 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 an act passed at the late session of the General Assembly, entitled an act to lay off and establish a new county by the name of Mitchell, be so amended as to run from the top of the Grand Father Mountain, with the old Watauga line, to the Blue Ridge; thence with the said Yancey line, and according to said act, around to the beginning.

SEC. 2. *Be it further enacted,* That this act shall be in force from and after its ratification. [Ratified the 11th day of May, 1861.]

AN ACT TO ALTER THE NAME OF THE NORTHAMPTON GUARDS. Chap. 23.

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 an act passed at the late session of the General Assembly, entitled an act to incorporate the "Northampton Home Guards," be, and the same is hereby altered and amended by striking out the word "home" in the name of the company in the said act mentioned, so that the name of said company shall be as follows, to wit: "The Northampton Guards. [Ratified the 9th day of May, 1861.]

PRIVATE LAWS
OF THE
STATE OF NORTH-CAROLINA,
PASSED BY THE
GENERAL ASSEMBLY,
AT ITS
SECOND EXTRA SESSION, 1861.

AN ACT TO AUTHORIZE THE GOVERNOR TO PAY THE OFFICERS AND *Chap. 32*
PRIVATES OF THE FIRST REGIMENT OF VOLUNTEERS ONE MONTH'S
PAY.

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 Governor to appoint an agent to proceed at once to Yorktown in the State of Virginia, and pay the officers and privates of the first regiment of North Carolina Volunteers one month's pay, according to the rules and regulations of the confederate army, except as to the time of payment, which pay shall be in lieu of the first month's pay due said officers and privates from the Confederate States of America, and to pay to the colonel of said regiment one thousand dollars to be held, used and accounted for as a hospital fund for said regiment, and the Governor is hereby authorized to draw upon the treasurer for such sums of money as may be necessary to meet the provisions of this act. Agent to pay to be appointed. \$1000 to be paid as hospital fund.

SEC. 2. *Be it further enacted,* That it shall be the further duty of the Governor to cause proper pay rolls and all other necessary papers to be transferred to the proper departments of the Confederate States, to enable the officers and privates of said regiment to draw their proper pay under the rules and regulations of the confederate army from the Confederate States. Pay rolls to be transferred.

SEC. 3. *Be it further enacted,* That it shall be the further duty of the Governor to notify the secretary of war and paymaster general of the Confederate States of the payment directed to be made and provided for in the first section of this act, and to receive from the Confederate States Notice to Confederate authorities.

the first month's pay due from said Confederate States to the said officers and privates of said first regiment, for the benefit of the State, under such rules and regulations as may be agreed upon by the Governor and secretary of war of the Confederate States.

SEC. 4. *Be it further enacted*, That this act shall be in force from and after its ratification. [Ratified the 27th day of August, 1861.

Chap. 33. AN ACT TO INCREASE THE LEGION OF COMPANIES OF CAVALRY COMMANDED BY COL. SAMUEL B. SPRUILL TO TEN COMPANIES.

Increased to ten companies. SECTION 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 legion of five companies of cavalry, authorized to be raised by an ordinance of the State Convention, and commanded by Col. Samuel B. Spruill, be increased to ten companies and that the Governor be authorized and requested to accept the services of the said additional five companies.

Recruits. SEC. 2. *Be it further enacted*, That the said companies of cavalry be recruited and equipped in the same manner and entitled to the same bounty and pay as are provided in an act of the General Assembly, entitled "An act to raise ten thousand State Troops."

Officers. SEC. 3. *Be it further enacted*, That the field officers and commissioned officers of companies not yet appointed, be appointed and commissioned by the Governor.

SEC. 4. *Be it further enacted*, That this act shall be in force from and after its ratification. [Ratified the 30th day of August, 1861.

Chap. 34. AN ACT TO AMEND THE COUNTY LINES OF MITCHELL COUNTY.

Charge of boundary lines. SECTION 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 boundary lines of the county of Mitchell shall be so amended as to stop on Toe River, at the mouth of Big Rock Creek, thence with the big ridge that divides Rock Creek and Brummett's Creek to the State line at the point where the Yancey and McDowell turnpike road crosses said line, as heretofore directed by law.

SEC. 2. *Be it further enacted*, That all of the county of Mitchell between the mouth of Big Rock Creek and the Tennessee line be re-annexed to the county of Yancey and constitute a part thereof. Portion of Mitchell to be annexed to Yancey.

Commissioners. SEC. 3. *Be it further enacted*, That Moses Young and J. B. Palmer, of the county of Mitchell, John S. Brown, of the county of McDowell, William C. Erwin, of the county of Burke, and N. W. Woodfin, be and they are hereby appointed Commissioners to select and determine upon a permanent seat of justice in and for said county, under the same provisions, rules and regulations as the commissioners appointed by and under an act entitled "An act supplemental to an act passed at the present session of this General Assembly, entitled An act to lay off and establish a new county by the name of Mitchell, ratified the 20th day of February, A. D., 1861," were authorized to do, and said commissioners shall meet for the purpose in this section mentioned, on some day between the 1st day of October, 1861, and the 1st day of July, A. D., 1862, and said commissioners shall be compensated for their services as directed in said supplemental act.

County site lots. SEC. 4. *Be it further enacted*, That as soon as such location of a seat of justice is made, the lots shall be laid off and sold as directed in said supplemental bill, and by the commissioners in said bill mentioned for this purpose.

SEC. 5. *Be it further enacted*; That this act shall be in force from and after its ratification. [Ratified the 4th day of September, 1861.

Chap. 35. AN ACT TO AMEND AN ACT RATIFIED ON THE 23rd DAY OF FEBRUARY, 1861, ENTITLED AN ACT TO REPEAL AN ACT ENTITLED AN ACT TO INCORPORATE THE TOWN OF FRANKLIN, IN MACON COUNTY, AND TO INCORPORATE SAID TOWN UNDER THE LAW FOR THE BETTER GOVERNMENT OF TOWNS.

Repealing clause. SECTION 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 so much of the third section of the act aforesaid as provides for an election to be held on the first Thursday in June, and annually thereafter, and so much of the sixth section of said act as provides for the appointment of judges to hold said election by the court of pleas and quarter sessions to be held on the second Monday in March, and annually thereafter, be and the same are hereby repealed.

PUBLIC LAWS ⁴⁶

29

OF THE

STATE OF NORTH CAROLINA,

PASSED BY THE

GENERAL ASSEMBLY

AT ITS

SESSION 1871-'72,

BEGUN AND HELD IN THE

CITY OF RALEIGH, ON THE TWENTIETH DAY OF NOVEMBER, 1871.

TO WHICH ARE PREFIXED

A REGISTER OF STATE OFFICERS, MEMBERS OF THE GENERAL ASSEMBLY AND
JUDICIARY, AND A LIST OF COMMISSIONERS OF AFFIDAVITS.

PUBLISHED BY AUTHORITY.

RALEIGH:

THEO. N. RAMSAY, STATE PRINTER AND BINDER

1872.

GEORGIA STATE LIBRARY

and the taxes collected under the provisions of this act for the years respectively aforesaid, shall be applied according to the intent as when originally levied.

Time determined.

SEC. 5. The powers hereby granted shall determine on the thirty-first day of December, anno donini, one thousand eight hundred and seventy-two.

When act to take effect.

SEC. 5. This act shall be in force from and after its ratification.

Ratified the 9th day of January, A. D., 1872.

CHAPTER XXXV.

AN ACT TO ERECT A TOLL GATE BETWEEN FRANKLIN, NORTH CAROLINA, AND CLAYTON, GEORGIA.

Turnpike:

SECTION 1. *The General Assembly of North Carolina do enact*, That the road leading from Franklin, in the county of Macon, to the locust stake, in Georgia line, in the direction of Clayton, Georgia, be and the same is hereby declared a turnpike.

Gate and toll.

SEC. 2. That the county commissioners of Macon county be and they are hereby authorized to erect a toll gate on said road, and demand such tolls as they may deem proper of persons using said road, not exceeding the highest rates allowed on the western turnpike: *Provided*, No citizen of this State shall be required to pay toll thereat.

Proviso.

SEC. 3. That this act shall be in force from and after its ratification.

When act to be in force.

Ratified the 9th day of January, A. D. 1872.

CHAPTER XXXVI.

AN ACT TO CHANGE THE LINE BETWEEN THE COUNTIES OF MITCHELL AND YANCEY.

SECTION 1. *The General Assembly of North Carolina do enact*, That all that portion of Yancey county lying on the north side of Taw river, be, and the same is hereby attached to the county of Mitchell. Land annexed.

SEC. 2. This act shall be in force from and after its ratification. When act to be in force.

Ratified the 9th day of January, A. D., 1872.

CHAPTER XXXVII.

AN ACT TO AMEND AN ACT OF PROCEEDINGS IN CRIMINAL CASES, LAWS OF ONE THOUSAND EIGHT HUNDRED AND SIXTY EIGHT AND ONE THOUSAND EIGHT HUNDRED AND SIXTY-NINE.

SECTION 1. *The General Assembly of North Carolina do enact*, Chapter third of chapter one hundred and seventy-eight, section eight, laws of one thousand eight hundred and sixty-eight and one thousand eight hundred and sixty-nine, is amended by striking out the words, "or by imprisonment in a state prison." Amendment.

SEC. 2. Amend section twenty-nine, subdivision two, of said chapter, by striking out the words, "and when the punishment cannot exceed five years imprisonment." Amendment 2.

SEC. 3. This act shall take effect from and after its ratification. When act to be in force.

Ratified the 9th day of January, A. D. 1872.

Part of Mecklenburg was annexed to Cabarrus in 1804.

. . . the tract of land now owned and inhabited by Evan Shelby Wiley, a small part of which lies within the county of Mecklenburg, shall be considered as lying exclusively in the county of Cabarrus.⁵⁸⁸

The dividing line between the counties of Anson and Mecklenburg was authorized to be run and marked in 1829.

. . . commissioners, with full power to run and mark the dividing line between the aforesaid counties of Anson and Mecklenburg as heretofore established by law; . . .⁶⁰⁰

No description is given in the law.

An act was passed in 1832 to prevent disputes in consequence of the survey of the dividing line between the counties of Anson and Mecklenburg.

. . . that the running and establishing said dividing line by the commissioners appointed in the year one thousand eight hundred and twenty nine, shall not in any wise whatever, effect the legal title to lands of the claimants of either county in consequence of the said line not being found by the said commissioners to run as it was supposed to run previous to the survey aforesaid.⁶⁰¹

Union was formed in 1842 from Anson and Mecklenburg.

. . . : Beginning at the corner of Anson and Mecklenburg, on the South Carolina line, and runs East on the South Carolina, eleven miles; thence East of a parallel of the county line, so that it shall be thirteen miles east of the Cabarrus corner, on Rocky River; thence up the various courses of the Rocky River to the corner of Anson and Mecklenburg, thence with the Cabarrus line, three miles; thence a direct line to where the Providence road crosses Six Mile Creek; thence with the meanders of the creek, to the South Carolina line; thence with the South Carolina line to the beginning; . . .⁶⁰²

MITCHELL

Mitchell was formed in 1861 from Yancey, Watauga, Caldwell, Burke, and McDowell. It was named in honor of Dr. Elisha Mitchell, a professor in the University of North Carolina. While on an exploring expedition on Mt. Mitchell, the highest peak east of the Mississippi River, Dr. Mitchell fell and was killed. He

⁵⁸⁸*Laws, 1804*, Ch. 53. Due to an error, which was discovered too late to renumber all subsequent footnotes, there is no footnote numbered 599.

⁶⁰⁰*Private Laws, 1829-30*, Ch. 126.

⁶⁰¹*Public Laws, 1832-33*, Ch. 24.

⁶⁰²*Laws, 1842-43*, Ch. 12. In 1889 commissioners were appointed to survey the line between Mecklenburg and Union. See appendix, p. 272, for this report.

was buried on the top of this lofty mountain. It is in the western section of the State and is bounded by the state of Tennessee and Avery, McDowell, and Yancey counties. The present area is 220 square miles and the population is 15,985. The first court was ordered to be held at Eben Child's. Commissioners were named to acquire the land, establish a town by the name of Calhoun, and erect a courthouse. The justices of the peace refused to levy taxes for the erection of the courthouse at Calhoun. They maintained it was inconvenient to three-fourths of the citizens. They said the matter should, therefore, be referred to the Assembly. In 1862 an act was passed authorizing the people to decide by ballot for Calhoun, or for Davis as the county seat. In 1863 an act was passed which stipulated that the county seat should be located at the geographical center of the county by actual survey and measurements. In 1863 the justices met and unanimously agreed that Norman's Hill should be selected as the county seat. From 1861 to 1866 the court was held at Eben Child's; at the Baptist Meeting House on Bear Creek; in Bakersville; at Bear Creek Meeting House; in Calhoun; and in Davis. At a special term of court in 1866 commissioners were appointed to acquire the land and lay out a town. At the regular September term, 1866, held at Davis, the commissioners reported that they had acquired 29 acres of land and sold the lots. In 1868 the county seat was changed from Davis to Bakersville. Bakersville was incorporated in 1870 and is the county seat.⁶⁰³

. . . , That a county by the name of Mitchell shall be and same is hereby laid off and established out of portions of Yancey, Watauga, Caldwell, Burke and McDowell counties with the following boundaries; beginning at the top of Grandfather mountain, thence with the top of the Blue Ridge to the Bear Wallow Gap, thence to the Three Knobs, thence to Big Crabtree creek, thence down said creek to Toe river, thence down said river to the Tennessee line, thence with the Tennessee line to Elk river, thence to place of beginning; . . .⁶⁰⁴

An act amending an act to establish a county by the name of Mitchell was passed in 1861.

. . . , That an act passed at the late session of the General Assembly, entitled an act to lay off and establish a new county by the name of Mitchell, be so amended as to run from the top of the Grand Father Mountain, with the old Watauga line, to the Blue Ridge; thence with the said Yancey line, and according to said act, around to the beginning.⁶⁰⁵

⁶⁰³Public Laws, 1860-61, Chs. 8, 9; Private Laws, 1862-63, Chs. 2, 5, (adjourned session); 1868, Ch. 2; 1869-70, Ch. 116; Manual, 1913, p. 704; Battle, p. 33; Mitchell County Court Minutes, 1861-1866, 1868. A report of the commissioners to locate the county seat is filed in the office of the Secretary of State, Raleigh, N. C. See appendix, p. 276, for a copy.

⁶⁰⁴Public Laws, 1860-61, Ch. 8.

⁶⁰⁵Private Laws, First Extra Session, 1861, Ch. 22.

An act changing the Mitchell County line by adding some to Yancey was passed in 1861.

. . . , That the boundary lines of the county of Mitchell shall be so amended as to stop on Toe River, at the mouth of Big Rock Creek, thence with the big ridge that divides Rock Creek and Brummett's Creek to the State line at the point where the Yancey and McDowell turnpike road crosses said line, as heretofore directed by law.

. . . , That all of the county of Mitchell between the mouth of Big Rock Creek and the Tennessee line be re-annexed to the county of Yancey and constitute a part thereof.⁶⁰⁶

Part of Yancey was annexed to Mitchell in 1872.

. . . , That all that portion of Yancey county lying on the north side of Taw river, be, and the same is hereby attached to the county of Mitchell.⁶⁰⁷

The dividing line between the counties of Mitchell and Yancey was authorized to be established in 1889.

WHEREAS, doubts have arisen concerning the location of the dividing line between the counties of Mitchell and Yancey; and whereas, the citizens living in the immediate vicinity of the line are unable to determine where they shall exercise the rights of citizenship and pay their taxes:

. . . the boards of comissioners . . . , to appoint one commissioner with one surveyor . . . , who shall proceed to locate the dividing line between said counties of Mitchell and Yancey from the ford of Big Crabtree creek up to the east fork of the same to its head, thence a direct course to the Bear Hollow gap on top of the Blue Ridge in the line of McDowell county, and shall mark the same by permanent monuments; . . .⁶⁰⁸

Avery County was formed in 1911 from Mitchell, Watauga, and Caldwell.

Beginning at the highest point of Grandfather Mountain, the corner of Watauga, Caldwell and Mitchell counties, and running a direct line to the Hanging Rock Mountain; thence with the dividing ridge to the Turnpike Road in the gap of Bower's Mountain; thence a direct course to the eastern prospect on the eastern end of Beech Mountain; then a direct course to the Buckeye Spring; then down and with the meanders of Buckeye Creek to Beech Creek; then with the meanders of Beech Creek to Watauga River; then with the meanders of the Watauga River to the Tennessee line; then with the Tennessee line to the Grassy Ridge Bald; then a direct line to Spear Top; then with the main height of Yellow Mountain to the highest point on Little Yellow Mountain; then a direct line to Pine Knob; then to the mouth of Gouge's Creek on Toe River; then south forty degres east to Bald Ground on Humpback Mountain at the

⁶⁰⁶Private Laws, Second Extra Session, 1861, Ch. 34.

⁶⁰⁷Public Laws, 1871-72, Ch. 36.

⁶⁰⁸Public Laws, 1889, Ch. 289.

McDowell County line; then with the McDowell County line to the Burke County line; then with the Burke County line to the Caldwell County line; then with the Burke and Caldwell line to the highest point on Chestnut Mountain; then a direct course to Anthony Creek so as to include all of Carey's Flats; then to the beginning.⁶⁰⁹

MONTGOMERY

Montgomery was formed in 1779 from Anson. It was named in honor of Richard Montgomery who, in 1775, lost his life at the battle of Quebec in the attempt to conquer Canada. It is in the south central section of the State and is bounded by Moore, Richmond, Stanly, Davidson, and Randolph counties. The present area is 488 square miles and the population is 16,280. The act establishing the county specified that the first court should be held at the home of Henry Munger, and all subsequent courts where the justices of the peace decided until a courthouse could be erected. Another act was passed that same year naming commissioners to select fifty acres of land centrally located and erect a courthouse, prison, and stocks. By 1783 there had developed dissatisfaction among many of the inhabitants as to the location the commissioners had selected. However, the Assembly that year authorized the courthouse to be constructed on the land purchased. The act provided for adequate ferries across the Yadkin and Uaree rivers on court, public, and election days. In 1785 the General Assembly was petitioned to authorize the removal of the courthouse. In 1791 an act was passed directing that the center of the county be located by actual survey, at which place Stokes was to be established. The commissioners, however, failed to act, and in 1792 new commissioners were named. The courts were to be held at the home of Mark Bennet unless the justices decided on some other place more convenient. In 1794 commissioners were again named to select a site for the courthouse. In that year, Henderson was established at the confluence of the Yadkin and Uaree rivers. In 1795 the courthouse, on the land formerly belonging to James Tindall, was authorized to be sold. Tindallsville had been established in that year. In 1815 commissioners were named to locate the center of the county, purchase land, and erect a courthouse. They were authorized to sell the old courthouse and lot in the town of Henderson and apply the proceeds to the erection of the new buildings. In 1816 Laurenceville was named under the authority of a law enacted in 1815 establishing a town at the

⁶⁰⁹Public Laws, 1911, Ch. 88.

courthouse. In 1843 the courthouse was ordered to be moved from Laurenceville to the geographical center. Commissioners were named to locate the center, to acquire the land, to lay out a town and to erect the public buildings. In 1844 Troy was established as the county seat.⁶¹⁰

... the said County of Anson be divided by the Road leading from Monroe's Bridge on Drowning Creek to Colson's Ferry to a point on the Mouth of Rocky River, thence running a direct Line crossing the Mouth of Rocky River to the Mouth of Rocky River, thence up the various courses to the Mouth of Rocky River, thence up the various courses to the Mouth of Rocky River to the Dividing Line between the Counties of Anson and Mecklenburg, and that all that part of the said County of Anson, which lies to the North of the said dividing Line, shall be erected into a new and Distinct County by the name of Montgomery. . . .⁶¹¹

The boundary line between Montgomery and Moore counties was authorized to be established in 1798 by an act which was directed:

... That the county Surveyors of the said counties of Montgomery and Moore, be and they are hereby empowered and required to run and mark the dividing line between Montgomery and Moore counties, from the Mouth of Rocky River to the head of Drowning creek, agreeably to an act entitled "An act for erecting the upper part of Bladen county into a county and parish by the name of Anson county and St. George's parish passed in the year one thousand seven hundred and forty-nine, and other acts having reference to the same."⁶¹²

The boundary line between the counties of Montgomery and Cabarrus was authorized to be established in 1802.

WHEREAS it is made appear that the dividing line has never run or ascertained between said counties, . . . the county surveyors of Montgomery and Cabarrus, shall previous to the first day of April next run and mark said line, beginning at Lord Carteret's line, six miles east from Captain Charles Hart's plantation on Buffalo Creek, and running from thence to the mouth of Clear Creek, which empties itself into the Rocky River, below Captain Adam Alexander's.⁶¹³

The dividing line between the counties of Cabarrus and Montgomery was authorized to be established in 1803.

... Commissioners to ascertain the divisional line between the counties; and when the same shall be so ascertained by said Commissioners, it shall be deemed and established to be the divisional line between the counties. . . . said Commissioners shall be governed in ascertaining said line by the laws heretofore passed fixing the boundaries of said counties, and

⁶¹⁰S. R., XVII, 278; XXIV, 232, 299, 542; Laws, 1791, Ch. 66; 1792, Ch. 55; 1794, Ch. 96; 1795, Chs. 70, 72; 1815, Ch. 25; 1816, Ch. 139; 1842-43, Ch. 40; Private Laws, 1843, Ch. 22; Manual, 1913, p. 706; Battle, p. 25.

⁶¹¹S. R., XXIV, 232.

⁶¹²Laws, 1798, Ch. 91.

⁶¹³Laws, 1802, Ch. 67.