

[TO: Elias Carr, Raleigh, N.C.]

MANNING & FOUSHEE,
ATTORNEYS AT LAW.

JAS. S. MANNING.
H. A. FOUSHEE.

Durham, N. C., Nov. 19th 1896.

Mr. Elias Carr,
Raleigh, N. C.

My Dear Sir: In regard to the matter of appointment of the directors of the N. C. R. R. Co. of which we spoke on yesterday, I find that Sec. 43 Charter N. C. R. R. Co. Act 1849 provides "That the State shall appoint a number of directors in said Company, in proportion to the stock subscribed, who shall be appointed by the Governor, by and with the advice and consent of his Council, and removed in like manner." Sec. 3 of the acts of 1855 amending the Charter provides "Be it further enacted, that the affairs of the said Company shall be managed and directed by a General Board to consist of twelve directors - eight on the part of the State, and four on the part of individual stockholders, to be elected and appointed as heretofore provided in the original act of incorporation of said Company &c" Sec. 1718 Code provides that "The President and directors of the board of internal improvements shall appoint, on behalf of the State, all such officers or agents &c" Sec. 1718 Code was

brought forward from the Rev. Code, and is
Sec. 38 Ch. 61 of the same. This was adopted
in 1854, perhaps before the charter of
the N. C. R. R. Co. was amended. Of this I
cannot be certain because I have not at
my hands the acts of 1854. Under the de-
cision of the Supreme Court of the United States
in the celebrated Dartmouth College Case 4 Whea-
ton 518, it would be an interesting question
if the method of appointing the directors on
the part of the state fixed in the charter was
not a part of the contract with Co. and
hence protected from alteration without
the consent of the Co. but it seems to me
well to avoid any such doubtful question
when it is so easily done, and I concur in
your opinion that it would be wise to
have your appointment expressly con-
firmed by the Board of Internal Improve-
ments & your Council of State, if the latter
has not already been done.

I am very truly yours,

J. V. Manning