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REVISED STATUTES
OF
NORTH CAROLINA.

PREPARED UNDER CHAPTER THREE HUNDRED AND FOURTEEN
OF THE LAWS OF NINETEEN HUNDRED AND THREE.

BY
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R.

IN TWO VOLUMES.

VOLUME TWO.

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I. NORTH CAROLINA AGRICULTURAL SOCIETY.

3798. Incorporated. The North Carolina agricultural society, as organized by a voluntary association, on the eighth day of October, one thousand eight hundred and fifty-two, at the city of Raleigh, shall be incorporated under the name and style of The North Carolina Agricultural Society, and may take and hold real and personal estate to the value of fifty thousand dollars, and no more, for the purposes hereinafter specified.

Code, s. 2214; R. C., c. 2, s. 1; 1852, c. 1, ss. 1, 3.

3799. Officers and their election. Such corporation shall annually elect a president, four vice-presidents, a treasurer, recording secretary, corresponding secretary, and such other officers as may be necessary; all of whom shall hold their offices until their successors are elected and qualified.

Code, s. 2215; R. C., c. 2, s. 2; 1852, c. 1, s. 2.

3800. By-laws. The corporation shall have power to make by-laws and regulations consistent with this chapter and the laws of the state, for its own government and for the due and orderly conduct and management of its affairs; and to rescind, alter or modify any of the rules, articles of association, by-laws or ordinances which existed before such society was incorporated by the general assembly, to the end that it may improve its organization and be empowered to adapt its operations to the great and useful purposes of its institution.

Code, s. 2216; 1860, c. 1; 1901, c. 2, s. 1.

3801. Annual fairs to be held. It shall be the duty of the corporation to provide a place for the holding of annual fairs, in order that the citizens may be encouraged by exhibitions, premiums, and other means to develop and improve the productions of agriculture, and every species of native industry; and to this end, and for these great and valuable purposes, and to no other, shall the corporation apply all the funds which by any means it may acquire.

Code, s. 2217; R. C., c. 2, s. 3.

3802. Appropriation and application thereof. 1. It shall be the duty of the state treasurer to pay to the treasurer of the corporation, on the first Monday of October, during each and every year, out of any moneys not otherwise appropriated, the sum of fifteen hundred dollars, to be disposed of in the payment of premiums, as hereinafter directed: Provided, the treasurer of the corporation shall first produce a certificate from the president thereof, showing that during the past twelve months the like sum has been raised by the corporation for the same purposes, and actually paid out for the premiums, as provided in this section.

2. Or the corporation shall be paid a sum not to exceed fifteen hundred dollars, equal to the sum raised and paid out by it for such premiums.

3. Unless all games of chance shall be excluded from the grounds of the corporation the appropriation hereby made shall not be paid to it as herein directed.

4. The money hereby appropriated shall be applied, under the direction of the corporation, to the payment of premiums upon agricultural productions, implements of husbandry, and domestic animals, and to such other purposes as may, in the judgment of the corporation, be calculated to advance the interest of agriculture and manufactures.

Code, ss. 2218, 2219; R. C., c. 2, ss. 4, 5; 1854, c. 1; 1887, c. 409, s. 13.

II. COUNTY SOCIETIES.

3803. How incorporated. Any number of resident persons, not less than ten, may associate together in any county, under written articles of association, subscribed by the members thereof, and specifying the object of the association to encourage and promote agriculture, domestic manufactures, and the mechanic arts, under such name and style as they may choose, and thereby become a body corporate with all the powers incident to such a body, and may take and hold such property, both real and personal, not exceeding ten thousand dollars in value, as may be needful to promote the objects of their association.

Code, s. 2220; R. C., c. 2, s. 6; 1852, c. 2, ss. 1, 2.

3804. How organized; to continue during the will of the legislature. Such society shall be organized by the appointment of a president, two vice-presidents, a secretary and treasurer, and such other officers as they may deem proper, who shall thereafter be chosen annually, and hold their places until others shall be appointed. And the society may from time to time, on such conditions as may be prescribed, receive other members of the corporation,

which shall continue as long as there are ten members, during the will and pleasure of the general assembly.

Code, s. 2221; R. C., e. 2, s. 7; 1852, e. 2, s. 3.

3805. Appropriation. When such society shall be fully organized, the organization thereof shall be certified by the president and signed by the secretary to the board of county commissioners, and thereupon the board shall order the same to be filed in the office of their clerk and there kept; and the clerk, under the seal of the board, shall certify a copy of the same, together with the order of the board to the auditor of the state, who, if by the certificate it shall appear to him that such society has been duly organized, according to this title, and it shall likewise be made to appear to him by the certificate of the treasurer of such society, signed by the president, and certified by the clerk of the board under the seal thereof, that the sum of fifty dollars has been actually paid to the society by the members thereof, within one year preceding, for the sole benefit of such society, shall draw his warrant and the treasurer shall pay to the treasurer of the society fifty dollars out of the public treasury for the like sole use and benefit; and such payment shall be annually made by the treasurer of the state on the terms and conditions set out in this chapter; but only one society for each county shall be entitled to the benefits of this chapter. The board of county commissioners, in case of a conflict between two claimants, shall determine which shall be the corporate body for the county.

Code, s. 2222; R. C., e. 2, s. 8; 1852, e. 2, ss. 3, 6.

3806. Albemarle agricultural and fish association; appropriation. Any number of resident persons in each of the following counties, namely, Currituck, Camden, Pasquotank, Perquimans, Gates, Chowan, Washington, Tyrrell and Dare, may associate themselves together as provided in this title under the name of The Albemarle Agricultural and Fish Association. When such association shall be fully organized, and the organization thereof certified by the president and signed by the secretary, the secretary under the seal of the association shall certify the same to the treasurer of the state, who, if by the certificate it shall appear to him that such association has been duly organized as herein provided, and if it shall be likewise made to appear to him by the certificate of the treasurer of the association, signed by the president, and certified by the secretary under the seal of the association, that the aggregate sum of the amounts herein required of each of such counties has been actually paid to the association by the members thereof, within one year preceding, for the sole benefit of the association, shall, upon warrant of the auditor, pay to the treasurer of such association an equal amount out of the public treasury as above provided for the

like sole use and benefit, and such payments shall be annually made by the treasurer of the state on the terms and in the manner herein specified.

1901, c. 141.

3807. Funds to be used in paying premiums. All moneys so subscribed, as well as that received from the state treasury as herein provided, shall, after paying the necessary incidental expenses of such society, be annually paid for premiums awarded by such societies, in such sums, and in such way and manner as they severally, under their by-laws, rules and regulations, shall direct, on such live animals, articles of production, and agricultural implements and tools, domestic manufactures, mechanical implements, tools and productions as are of the growth and manufacture of the county, and also such experiments, discoveries, or attainments in scientific or practical agriculture as are made within the county wherein such societies are respectively organized.

Code, s. 2223; R. C., c. 2, s. 9; 1852, c. 2, s. 7.

3808. Annual statements to be made to state treasurer. Each agricultural society, entitled to receive money from the state treasury, shall, through its treasurer, transmit to the treasurer of the state, in the month of December or before, a statement showing the money received from the state, the amount received from the members of the society for the preceding year, the expenditures of of all such sums, and the number of the members of such society.

Code, s. 2224; R. C., c. 2, s. 10; 1852, c. 2, s. 8.

3809. Publication of statements required. Each agricultural society receiving money from the state under this chapter, shall, in each year, publish at its own expense a full statement of its experiments and improvements, and reports of its committees, in at least one newspaper in the state; and evidence that the requirements of this chapter have been complied with shall be furnished to the state treasurer before he shall pay to such society the sum of fifty dollars for the benefit of such society for the next year.

Code, s. 2225; R. C., c. 2, s. 11; 1852, c. 2, s. 9.

3810. Records to be kept; may be read in evidence. The secretary of such society shall keep a fair record of its proceedings in a book provided for that purpose, which may be read in evidence in suits wherein the corporation may be a party.

Code, s. 2226; R. C., c. 2, s. 12; 1852, c. 2, s. 5.

CHAPTER 87.

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I. CREATION.

3811. How incorporated. Any number of persons, not less than three, who may be desirous of forming a company, and engaging in the business of establishing, maintaining and operating banks of discount and deposit to be known as commercial banks, or of engaging in the business of establishing, maintaining and operating offices of loan and deposit to be known as savings banks, or of establishing, maintaining and operating banks having departments for both classes of business, shall be incorporated in the manner following, and in no other way; that is to say, such persons shall, by a certificate of incorporation, under their hands and seals, set forth:

1. The name of the corporation; no name shall be assumed already in use by another existing corporation organized under the laws of this state or of the Congress, or so nearly similar thereto as to lead to uncertainty or confusion.

2. The location of its principal office in the state.

3. The nature of its business, whether that of commercial bank, or savings bank, or both.

4. The amount of the total authorized capital stock, the number of shares into which it is divided, and the par value of each share, which shall be either fifty dollars or one hundred dollars; the amount of capital stock with which it will commence business, which shall not be less than five thousand dollars in cities and towns of fifteen hundred population or less; nor less than ten thousand dollars in cities and towns whose population exceeds fifteen hundred but does not exceed five thousand; nor less than twenty-five thousand dollars in all other places; the population to be ascertained by the last preceding national census; and if there be more than one class of stock, a description of the different classes, with the terms on which the respective classes of stock are created.

5. The names and postoffice addresses of the subscribers for stock and the number of shares subscribed by each; the aggregate of such

subscriptions shall be the amount of the capital stock with which the company will commence business.

6. The period, if any, limited for the duration of the company.
1903, c. 275, ss. 1, 2; 1901, c. 769.

3812. Certificates of incorporation; how signed, proved and filed. The certificate of incorporation shall be signed by the original incorporators, or a majority of them, and shall be proved, or acknowledged, before an officer duly authorized under the laws of this state to take the proof or acknowledgment of deeds. Such certificate of incorporation, when so proved, shall be filed in the office of the secretary of state, who shall, if the same shall be in accordance with law, thereupon cause the same to be recorded in his office in a book to be kept for that purpose, and known as the Corporation Book, and he shall, upon the payment of the organization tax and fees, certify under his official seal two copies of the said certificate of incorporation and probates, one of which shall be forthwith recorded in the office of the clerk of the superior court of the county where the principal office of said corporation in this state shall, or is to be, established, in a book to be known as the Record of Incorporations, and the other certified copy shall be filed in the office of the corporation commission, and thereupon the said persons shall become a body politic and corporate under the name stated in such certificate. The said certificate of incorporation, or a copy thereof duly certified by the secretary of state or by the clerk of the superior court of the county in which the same is recorded, or by the clerk of the corporation commission, under their respective seals, shall be evidence in all courts and places, and shall, in all judicial proceedings, be deemed prima facie evidence of the complete organization and incorporation of the company purporting thereby to have been established.

1903, c. 275, s. 3; 1901, c. 2, s. 9; 1903, c. 343.

3813. Payment of capital stock. At least fifty per cent. of the capital stock of every bank shall be paid in in cash before it shall be authorized to commence business and the remainder of the capital stock of such bank shall be paid in monthly instalments of at least ten per cent. in cash of the whole of the capital, payable at the end of each succeeding month from the time it shall be authorized by the corporation commission to commence business, and the payment of each instalment shall be certified to the corporation commission, under oath, by the cashier or president of the bank.

1903, c. 275, s. 10.

3814. Statement filed before beginning business. Before such company shall begin the business of banking there shall be filed

with the corporation commission a statement under oath, by the cashier or president, containing the names of all of the directors and officers, with the date of the election or appointment, term of office, residence and postoffice address of each, the amount of capital stock of which each is the owner in good faith, and the amount of money paid in on account of the capital stock. Nothing shall be received in payment of capital stock but money.

1903, c. 275, ss. 5, 10.

3815. Authorized to begin business, when and how. If from such statement, or upon an examination, if such examination appears necessary, it appears to the corporation commission that such corporation is lawfully entitled to commence the business of banking, it shall, within thirty days after the filing of the certificate required by law, give to such corporation a certificate signed by the chairman of the corporation commission, attested by the secretary of the commission, that such corporation has complied with all the provisions required to be complied with before commencing the business of banking and that such corporation is authorized to commence such business.

1903, c. 275, s. 7.

3816. Authority to begin business withheld, when. The corporation commission may withhold from any bank its certificate authorizing the commencement of business whenever it has reason to believe that the stockholders have formed the same for any other purpose than the legitimate objects contemplated by this chapter.

1903, c. 275, s. 6.

II. POWERS AND DUTIES.

3817. Powers. In addition to the powers conferred by law upon private corporations, banking corporations shall have power—

1. To exercise by its board of directors or duly authorized officers or agents subject to law, all such powers as shall be necessary to carry on the business of banking, by discounting and negotiating promissory notes, drafts, bills of exchange and other evidences of debts, by receiving deposits, by buying and selling exchange, coin and bullion, by loaning money on personal security or real or personal property. Such corporation at the time of making loans or discounts, may take and receive in advance such interest as may be agreed upon not exceeding the legal rate.

2. To purchase, hold and convey real estate for the following purposes:

1st. Such as shall be necessary for the convenient transaction of its business, including with its banking offices other apartments to

rent as a source of income, which investment shall not exceed twenty-five per cent. of its paid-in capital stock and permanent surplus: Provided, that this provision shall not apply to any such investment made before the ninth day of March, one thousand nine hundred and three.

2d. Such as is mortgaged to it in good faith by way of security, for loans made or money due to such bank.

3d. Such as is conveyed to it in satisfaction of debts previously contracted in the course of its dealings.

4th. Such as it acquires by sale under execution or judgment of any court in its favor.

1903, c. 275, ss. 8, 9.

3818. When bank may purchase its stock. No bank shall be the holder as pledgee or as purchaser of any portion of its capital stock, unless such purchase shall be necessary to prevent loss upon a debt previously contracted in good faith.

1903, c. 275, s. 1.

3819. Reorganization. Whenever any bank, under the laws of this state or of the United States, is authorized to dissolve and shall have taken the necessary steps to effect dissolution, it shall be lawful for a majority of the directors of such bank, upon the authority in writing of the owners of two-thirds of its capital stock, with the approval of the corporation commission, to execute articles of incorporation as provided in this chapter, which articles, in addition to the requirements of law, shall further set forth the authority derived from the stockholders of such dissolved national bank or state bank, and upon filing the same as hereinbefore provided for the organization of banks, the same shall become a bank under the laws of this state, and thereupon all assets, real and personal, of the dissolved national bank, shall by operation of law be vested in and become the property of such state bank, subject to all liabilities of such national bank not liquidated under the laws of the United States before such reorganization.

1903, c. 275, s. 17.

3820. Reserve fund. Every bank shall at all times have on hand as a reserve in available funds an amount equal to at least fifteen per cent. of the aggregate amount of its deposits. Two-fifths of such fifteen per cent. shall be cash in the vaults of the bank. Savings banks shall have on hand at all times, as a reserve in available funds, an amount equal to at least five per cent. of their aggregate deposits.

1903, c. 275, s. 28.

3821. Available funds; when below reserve; no new loans or dividends. The available funds shall consist of cash on hand and balances due from other solvent banks. Cash shall include lawful money of the United States, and exchange for any clearing-house association. Whenever the available funds of any bank shall fall below the reserve herein required, such bank shall not make any new loans or discounts otherwise than by discounting or purchasing bills of exchange payable at sight; nor shall such bank make any dividends of its profits until it has on hand the available funds required by this chapter.

1903, c. 275, s. 29.

3822. Loans to one person not to exceed ten per cent. of capital. The total liabilities to any bank or banking institution, of any person, or of any company, corporation or firm, for money borrowed, including in the liabilities of a company or firm the liabilities of the several members thereof, shall at no time exceed one-tenth part of the amount of the capital stock of such bank or banking institution actually paid in. But the discount of bills of exchange drawn in good faith against actually existing values and the discount of commercial or business paper actually owned by the person negotiating the same shall not be considered as money borrowed. This section shall not apply to banks with a paid-up capital of one hundred thousand dollars or less.

1897, c. 298, s. 3; 1897, c. 432.

3823. Chapter on corporations applicable. All of the provisions of law relating to private corporations, and particularly those enumerated in the chapter entitled Corporations, not inconsistent with this chapter, or with the business of banking, shall be applicable to banks.

1903, c. 275, s. 4.

III. STOCKHOLDERS.

3824. Individual liability of. The stockholders of every bank organized under the laws of North Carolina, whether under the general law or by special act, shall be individually responsible, equally and ratably, and not one for another, for all contracts, debts and engagements of such corporation, to the extent of the amount of their stock therein at par value thereof, in addition to the amount invested in such shares. The term "stockholder," when used in this chapter, shall apply not only to such persons as appear by the books of the corporation to be stockholders, but also to every owner of stock, legal or equitable, although the same may be on such books in the name of

another person; but shall not apply to a person who may hold the stock as collateral security for the payment of a debt.

1903, c. 275, s. 13; 1897, c. 298.

3825. Exemptions in special charters repealed. Any exemption from the individual liability imposed upon stockholders by the preceding section contained in the charter of any bank incorporated prior to the first day of January, one thousand nine hundred and five, is repealed.

1897, c. 298, s. 2.

3826. Executors, trustees, etc., not personally liable. Persons holding stock as executors, administrators, guardians, or trustees shall not be personally subject to any liabilities as stockholders, but the estates and funds in their hands shall be liable in like manner and to the same extent as the testator, intestate, ward, or person interested in such trust funds would be if living and competent to act and hold the stock in his own name.

U. S. Rev. Stat., s. 5152.

3827. Transferer not liable, when. No person who has in good faith and without any intent to evade his liability as a stockholder, transferred his stock on the books of the corporation to any person of full age, previous to any default in the payment of any debt or liability of the corporation, shall be subject to any personal liability on account of the nonpayment of such debt or liability of the corporation, but the transferee of any stock so transferred previous to any default shall be liable for any such debt or liability of the corporation to the extent of such stock, in the same manner as if he had been the owner at the time the corporation contracted such debt or liability.

1903, c. 275, s. 14.

3828. Stock sold if subscription unpaid. Whenever any stockholder or his assignee fails to pay any instalment on the stock, when the same is required by law to be paid, the directors of the bank may sell the stock of such delinquent stockholder at public sale, as they shall deem best, having first given the delinquent stockholder twenty days' notice, personally or by mail, at his latest known address. If no party can be found who will pay for such stock the amount due thereon to the bank, with any additional indebtedness of such stockholder to the bank, the amount previously paid shall be forfeited to the bank and such stock shall be sold as the directors may order within six months of the time of such forfeiture, and if not sold, it shall be cancelled and deducted from the capital of the bank.

1903, c. 275, s. 11.

IV. CORPORATION COMMISSION.

3830. May make rules. The corporation commission shall have power to make such rules for the government of the banks and banking institutions of this state, not inconsistent with law, as may in its judgment seem wise and expedient.

1903, c. 275, s. 20.

3831. All banking institutions under supervision of. Every bank, corporation, partnership, firm or individual, now or hereafter transacting a banking business under the laws of, and within, this state, shall be subject to the provisions of this chapter and regulated by and be under the supervision of the corporation commission.

1903, c. 275, s. 19.

3832. Quarterly reports to; publication in county. Every bank and every corporation, partnership, firm or individual transacting a banking business shall make to the corporation commission not less than four reports during each year, according to the form which may be prescribed by said commission; which reports shall be verified in the case of incorporated banking companies by the oath or affirmation of the president, vice-president or cashier, and, in addition, two of the board of directors, and in other cases by the oath or affirmation of the partners, members of the firm or individual owner. The bank, corporation or individual making such report shall publish same in some newspaper in the county in which such bank, corporation or individual is located.

1903, c. 275, s. 21.

3833. Special reports. The corporation commission shall have power to call for special reports from any bank, corporation, firm or individual transacting a banking business, whenever necessary, in order to obtain a full and complete knowledge of such bank.

1903, c. 275, s. 22.

3834. Annual report of stockholders. Every bank shall at all times keep a correct record of the names of all its stockholders, and once in each year, or whenever called upon, file in the office of the corporation commission a correct list of all of its stockholders, with the number of shares held by each.

1903, c. 275, s. 16.

3835. Penalty for failure to report, etc. Every bank, corporation, partnership, firm or individual that shall refuse, fail or neglect to make any report, or any published statement required by the provisions of this chapter shall be subject to a penalty of two hundred dollars. The penalty herein provided for shall be recovered by the

state in a civil action in any court of competent jurisdiction, and it shall be the duty of the attorney general to prosecute all such actions.

1903, c. 275, s. 26.

NOTE. For frauds by bank officers and agents, see Crimes.
For false and fraudulent bank statements, see Crimes.

V. BANK EXAMINERS.

3836. Appointed by corporation commission. The corporation commission shall appoint a suitable person or persons to make an examination of and into the affairs of every bank, corporation or individual doing a banking business, as often as shall be deemed necessary and proper, and at least once every year. The corporation commission may at any time remove any person appointed by it.

1903, c. 275, s. 23.

3837. Powers. Such examiners shall have power to make a thorough examination into all the books, papers and affairs of the bank or corporation, firm or individual transacting a banking business, and, in so doing, to administer oaths and affirmations and to examine on oath or affirmation any individual banker and the officers, agents, partners and clerks of such bank, corporation, firm or individual touching the matters he or they shall be authorized and directed to inquire into, and examine, and to summon, and by attachment compel the attendance of any person or persons in this state to testify under oath before him or them in relation to the affairs of such corporation, partnership, firm or individual.

1903, c. 275, s. 24.

3838. Reports by, to corporation commission. Bank examiners shall make a full and detailed report in writing to the corporation commission, of the condition of each corporation, partnership, firm or individual doing a banking business, within ten days after each and every examination made by them.

1903, c. 275, s. 24.

3839. Annual examinations; expenses paid by bank. One examination each year shall be designated as the annual examination, and for such examination the bank, corporation, or individual so examined shall pay into the office of the corporation commission, to be paid to the examiners, an examination fee, as follows: Banks, banking institutions or individuals doing a banking business, having a capital of twenty-five thousand dollars or less, shall pay a fee of fifteen dollars; those having a capital stock of more than twenty-five thousand dollars and not over fifty thousand dollars, twenty-

five dollars; those having a capital stock of over fifty thousand dollars, thirty dollars. The expenses incurred and services, other than examinations performed specially for any bank, shall be paid by such bank or banking institution. No bank shall be compelled to pay for more than one examination in each year, unless it shall appear that the condition of such bank, banking institution or banker is precarious, or in any way unsatisfactory, then it shall be the duty of the commission to order a special examination, which shall be paid for by such bank at the same rates as the annual examinations.

1903, c. 275, s. 25.

3840. Take possession of bank, when; receiver appointed, how.

Any bank examiner who has filed such bond as may be required by the commission, when ordered by the commission, shall have authority to take possession of any bank doing business under the laws of this state and retain possession thereof for a time sufficient to make a thorough examination into its affairs and financial condition; and in case it is found by the examiner, upon such examination, that such bank is insolvent or is conducting its business in an unsafe and unauthorized manner, or is jeopardizing the interests of its depositors, then such examiner, when authorized by the corporation commission, shall have full power and authority to take, hold and retain possession of all the money, rights, credits, assets and property of every description belonging to such bank, corporation, partnership, firm or individual, until the corporation commission can receive and act on the report made by the examiner of such bank, and have a receiver appointed, for the purpose of winding up and settling the affairs of such bank, banking institution or banker, according to law; and the corporation commission is hereby empowered, in its own name, to institute and maintain civil actions for the appointment of receivers in such cases, and for such other relief as may be necessary or proper to protect the creditors of such bank. The commissioners in their judgment may grant such bank, corporation or individual sixty days in which to correct any errors or irregularities, and make good any deficiencies or losses shown in any reports or otherwise.

1903, c. 275, s. 30.

3841. May make arrests, when. When it shall appear to any bank examiner, by examination or otherwise, that any officer, agent, employee, director, stockholder or owner of a bank or banking institution has been guilty of a violation of the criminal laws of the state relating to banks and banking institutions, it shall be his duty to hold and detain such person until a warrant can be procured for his arrest; and for such purpose such examiner shall have and possess all the powers of a peace officer of such county, and may arrest

without warrant for past offenses. Upon report of his action to the corporation commission, it shall direct the release of the person so held, or, if in its judgment such person should be prosecuted, the commission shall cause the solicitor of the judicial district in which such detention is had to be promptly notified, and the action against such person shall be continued a reasonable time to enable such solicitor to be present at the trial. Such bank examiner is authorized to take good and sufficient bond for the appearance of such person from day to day until a trial is had.

NOTE. For malfeasance by bank examiners, see Crimes.

CHAPTER 88.

BUILDING AND LOAN ASSOCIATIONS.

	Sections.
I. Creation,	3842—3845
II. Stock,	3846—3850
III. Loans,	3851—3857
IV. Agents,	3858—3862
V. Corporation Commission,	3863

I. CREATION.

3842. How incorporated. Any number of persons, not less than seven, who may be desirous of forming a company and engaging in the business usually performed by building and loan associations or companies, shall be incorporated in the manner following, and in no other way; that is to say, such persons shall, by a certificate of incorporation, under their hands and seals, set forth:

1. The name of the corporation; no name shall be assumed already in use by another existing corporation, organized under the laws of this state, or of Congress, or so nearly similar thereto as to lead to uncertainty or confusion.
2. The location of its principal office in the state.
3. The nature and character of its business and the plan upon which its business is to be conducted.
4. The amount of its total authorized capital stock, the number of shares into which it is divided, and the par value of each share, and the character of the different classes of stock.
5. The names and postoffice addresses of the subscribers for stock, and the number of shares subscribed by each; the aggregate of such

subscriptions shall be the amount of the capital stock with which the company will commence business.

6. The period, if any, limited for the duration of the company.

Code, s. 2294; 1869-70, c. 129; 1893, c. 434, s. 2300c.

3843. Certificates of incorporation; how signed, proved and filed. The certificate of incorporation shall be signed by the original incorporators, or a majority of them, and shall be proved or acknowledged before an officer duly authorized under the laws of this state to take the proof or acknowledgment of deeds. Such certificate of incorporation, when so proved, shall be filed in the office of the secretary of state, and there remain of record, who shall, if the same shall be in accordance with law, thereupon cause the same to be recorded in the office in a book to be kept for that purpose, and known as the Corporation Book, and he shall, upon the payment of the organization tax and fees, certify under his official seal two copies of the said certificate of incorporation and probates, one of which shall be forthwith recorded in the office of the clerk of the superior court of the county where the principal office of such corporation in this state shall, or is to be, established, in a book to be known as the Record of Incorporations, and the other certified copy shall be filed in the office of the corporation commission.

3844. When to begin business. Upon filing the certificate of incorporation with the secretary of state, and the certified copies with the corporation commission, and with the clerk of the superior court of the county where the principal office of the corporation is located, the company shall become a body politic and corporate, and shall be authorized to begin business.

Code, s. 2297.

3845. Chapter on corporations applicable. All of the provisions of law relating to private corporations, and particularly those enumerated in the chapter entitled Corporations, not inconsistent with this chapter, or with the business of building and loan associations, shall be applicable to building and loan associations.

II. STOCK.

3846. Married women and minors as holders. Married women and minors of the age of twelve years and upwards are hereby authorized and empowered to become stockholders in and to buy, sell, hold, pay dues on, withdraw, transfer and otherwise deal in the stock in any association formed under this chapter in the same manner and with the same powers, rights and liabilities, force and

effect as though such minors or feme covert were of full age or unmarried.

1903, c. 728.

3847. How new members admitted. Any person applying for membership or stock in any such corporation after the end of a month from the date of its incorporation, may be required to pay, on subscribing, such sums or assessments as may from time to time be fixed and assessed in such manner as may be provided by such corporation, in order to place such new member or stockholder on like footing with the original members and others holding stock at the time of such application: Provided, that any association that has been or may be organized under this chapter shall be authorized and empowered to establish one or more additional class or classes of shares, under such rules, regulations and restrictions for issuing, paying and redeeming the same as to them shall appear expedient and proper, not inconsistent with this chapter, or laws of the state.

Code, s. 2298; 1869-70, c. 129, s. 5; 1874-5, c. 78.

3848. Limit number of shares owned. Any corporation created under this chapter shall have power to declare in their certificate of incorporation the number of shares of which the capital stock of such corporation shall consist, the par value of the same, to limit the number which each stockholder may be allowed to hold, to prescribe the entrance fee to be paid by each stockholder at the time of subscribing, to regulate the instalments to be paid on each share, and the times at which the same shall be paid and payable.

Code, s. 2296; 1869-70, c. 129, s. 3.

3849. Payment by instalments. Any such corporation shall have power to issue to each member of such corporation a certificate of the shares of stock held by him, and to enforce the payment of all instalments and other dues due to said corporation from the members or stockholders by such fines and forfeitures as the corporation may, from time to time, provide in the by-laws or certificate of incorporation of such corporation.

Code, s. 2297; 1869-70, c. 129, s. 4.

3850. May issue different classes. Every building and loan association doing business in this state shall be authorized to issue as many classes or series and kinds of stock, including instalment and paid-up stock, as may be provided for in its charter or by-laws.

1895, c. 444, s. 3.

III. LOANS.

3851. May lend to shareholders. It shall be lawful for any such corporation at any time in advance of the time at which such corporation shall cease to exist, according to the plan contained in the certificate of incorporation thereof, to advance to any member thereof for such premium as may be agreed upon, the sum which he would be entitled to receive upon the dissolution thereof, for any number of shares therein held by him, or to purchase from any member the share or shares of stock held by him at such price or sum as, according to the certificate of incorporation, such member may agree to receive, and on payment of said sum of money, to receive from such member security as is hereinafter mentioned for the payment by such members to said corporation of the unpaid instalments, to be paid on the shares of stock so sold or redeemed, together with interest at the rate of six per cent. per annum, on the sum of money so paid or advanced to such member at such times, and under and subject to such fines and penalties for nonpayment thereof as may be prescribed by the articles of association of such corporation.

Code, s. 2299; 1869-70, c. 129, s. 6; 1881, c. 365; 1895, c. 444.

3852. Contracts solvable in the state. Every contract made by any foreign association with any citizen of this state shall be deemed and considered a North Carolina contract and shall be construed by all the courts of this state, according to the laws thereof.

1895, c. 444, s. 3.

3853. Mortgage to secure. The payment of the amount loaned and of the unpaid instalments on the shares so purchased or redeemed, with interest upon the sum of money paid therefor at the rate heretofore mentioned, and all fines and penalties incurred in respect thereof by any such member, shall be secured to such corporation by way of mortgage on real or leasehold property, or by hypothecation of stock of such corporation held by such member as may be provided in the certificate of incorporation of any such corporation: Provided, in case of hypothecation of stock, no greater sum of money shall at any time be drawn out by any member than shall have already been paid in by him on all his shares at the time of such hypothecation.

Code, s. 2300; 1869-70, c. 129, s. 70; 1870-1, c. 156; 1895, c. 444, s. 2.

3854. May repay at any time. Any member of such association who shall borrow from it shall have the right at any time to pay off and discharge his loan by paying the amount received by him, including the costs and expenses of making the loan, if the same shall have been deducted therefrom, with interest at the rate of six

per cent. per annum on the whole sum received by him to the date of settlement. Upon such settlement he shall be credited with only the withdrawal value, as fixed by the charter or by-laws of such association, of his shares of stock which have not been transferred or assigned to the association by way of or in lieu of premium on the loan. In case of default by a stockholder who has borrowed from the association, and a foreclosure of his mortgage, the amount of his indebtedness to such association shall be ascertained in manner provided by this chapter.

1895, c. 444, s. 3.

3855. How settlements made with borrower. In the settlement provided for in the foregoing sections no account shall be taken of the premiums paid by the borrowing member, but the same shall be deemed the consideration of his being allowed to anticipate the ultimate or par value of his stock by his present use and possession thereof, in preference to the other stockholders.

1895, c. 444, s. 3.

3856. Stock may be restored. Nothing herein contained shall prevent an association from contracting with its borrowing members for the restoration or reinstatement of their stock upon such terms as may be agreed upon.

1895, c. 444, s. 3.

3857. Company may borrow. Every building and loan association may borrow money for the purpose of making loans and advances to its members.

1895, c. 444, s. 3.

IV. AGENTS.

3858. General agents of foreign associations. Every nonresident building and loan association doing business in this state shall appoint a general agent or attorney, who shall be a citizen and resident of this state, and file a certificate of such appointment with the corporation commission, and copies of such certificates of appointment, certified by the said corporation commission, shall be received as sufficient evidence of such appointment before any court in this state, and such certificate shall contain a stipulation agreeing that so long as there may be any liability on the part of the applicant under any contract entered into in pursuance of any law of this state, process may be served in the absence of the principal upon such general agent or attorney: Provided, that service may be made upon the clerk of the corporation commission and it shall be his duty in such case to transmit at once a copy of the process to the home office of the association.

1893, c. 434, s. 2300a; 1899, c. 164, s. 2, subsec. 20.

3859. Must be licensed. It shall be unlawful for any person to solicit business or act as agent for any building and loan association or company without having procured from the corporation commission a certificate that such association or company for which he offers to act is duly licensed by the state to do business for the current year in which such person solicits business or offers to act as agent. The corporation commission shall collect a fee of fifty cents for issuing each such certificate, to be paid by the company for which the same is issued, which shall be paid into the state treasury.

1895, c. 444, s. 3; 1899, c. 154, s. 2, subsec. 20.

3860. Reports filed. Every association doing business under this chapter shall file in the office of the corporation commission, on or before the first day of March in each year, in such form as it shall prescribe, a statement of the business standing and financial condition of the applicant on the preceding thirty-first day of December, signed and sworn to by the principal or by the chief managing agent, attorney or officer thereof, before some one authorized by law to administer oaths.

1893, c. 434, s. 2300b; 1899, c. 154, s. 2, subsec. 20.

3861. Examination fees paid by company. The expenses and costs of the examination of any building and loan company or association required or authorized to be made by any law shall be defrayed by the company or association subject to investigation, and each company or association doing business in this state shall stipulate in writing, to be filed with the corporation commission, that it will pay all reasonable costs and expenses of such examination when it shall become necessary.

1895, c. 444, s. 3; 1899, c. 154, s. 2, subsec. 20.

3862. Penalty failing to obey law. Every general agent or attorney of any building and loan company or association, who shall fail or refuse to perform any duty required of him by this chapter, shall forfeit and pay to the corporation commission fifty dollars for the state for every such refusal, to be recovered before any justice of the peace at the suit of the corporation commission.

1893, c. 434, s. 2300g; 1899, c. 154, s. 2, subsec. 20.

V. CORPORATION COMMISSION.

3863. Power of, over building and loan associations. The corporation commission shall have power and are directed:

1. **TO REQUIRE CHARTER FILED.**—To require every building and loan association doing business in this state to file with the com-

mission a copy of the charter, certificate of incorporation or other statement, showing the mode in which the applicant proposes to do business.

2. **TO REQUIRE REPORTS.**—To require every building and loan association to annually make such statements to the corporation commission as are required by law; to receive and thoroughly examine such annual statements, and, if made in compliance with the requirements of law, to publish an abstract of the same in one of the newspapers of the state, to be selected by the general agent or attorney making such statement, and at the expense of his principal. The commission shall collect a fee of five dollars for each annual statement, which shall be paid into the state treasury.

3. **TO MAKE EXAMINATION.**—If at any time the corporation commission shall have good reason to think that the standing and responsibility of any building and loan association or company doing business in this state is of doubtful character, it shall be the duty of the corporation commission to examine into and investigate anything relating to the business of such company, and to that end it is hereby authorized to appoint a suitable and competent person to make such investigation, who shall file with the corporation commission a full report of his finding in such case.

4. **TO REVOKE LICENSE.**—If at any time it shall appear that any statements made by any association licensed by law shall be untrue, or in case a general agent shall fail or refuse to obey the provisions of law, the corporation commission may cancel and revoke the license of such association to do business in this state.

1893, c. 434; 1899, c. 164, s. 2, subsec. 20; 1895, c. 444; 1899, c. 164, s. 2, subsec. 21.

CHAPTER 89.

BUREAU OF LABOR AND PRINTING.

(Sections 3864—3867.)

3864. Creation of; election; term of office. A bureau of labor and printing is hereby created and established, the duties of which bureau shall be exercised and discharged by a commissioner, who shall be designated as Commissioner of Labor and Printing and by an assistant, who shall be appointed by the commissioner, and who shall be a practical printer. The commissioner shall be elected by the people in the same manner as is provided for the election of the secretary of state. His term of office shall be four years. The

office of the bureau shall be kept in the city of Raleigh and the same shall be provided for as are other public offices of the state.

1899, c. 373, s. 2, c. 539.

3865. Duties and powers of commissioner. The commissioner, aided by the assistant commissioner, shall collect and collate information and statistics concerning labor and its relation to capital, the hours of labor, the earnings of laborers and their educational, moral and financial condition, and the best means of promoting their mental and moral and material welfare; shall also collect and collate information and statistics concerning the various mining, milling and manufacturing industries in this state, their location, capacity and actual output of manufactured products, the kind and quantity of raw material annually used by them and the capital invested therein; shall also collect and collate information and statistics concerning the location, estimated and actual horsepower and condition of valuable water-powers developed and undeveloped in this state; also concerning farm lands and farming, the kinds, character and quantity of the annual farm products in this state; also of timber lands and timbers, truck gardening, dairying and such other information and statistics concerning the agricultural and industrial welfare of the citizens of this state as he may deem to be of interest and benefit to the public, and shall also perform the duties of mine inspector as prescribed in chapter one hundred and four; and shall have the powers and perform the duties in relation to the public printing that are set forth in chapter one hundred and nine. The assistant commissioner shall perform the duties of the commissioner in his absence from office or in case of a vacancy therein.

1899, c. 373, ss. 3, 4; 1899, c. 622, ss. 1, 2; 1901, c. 280, s. 2; 1901, c. 401, s. 2; 1897, c. 251.

3866. Official reports. The commissioner shall annually publish a report embodying therein such information and statistics as he may deem expedient and proper, which report shall be printed and paid for by the state just as the report of other public officers are printed and paid for. The number of copies of such report to be printed to be designated by the commissioner. The distribution of the reports will be paid for from the general fund and not from the appropriation. The commissioner shall send or cause to be sent a copy of the report to every newspaper in this state and a copy to each member of the general assembly; a copy of each of the several state and county officers; a copy to each labor organization in the state and a copy to any citizen who may apply for the same either in person or by mail, and he may also send a copy to such officers of other states and territories and to such corporations or individuals in other states and territories as may apply for the

same or as he may think proper. He shall also make a full report to the governor as other state officers are required to do, embodying therein such recommendations as he may deem calculated to promote the efficiency of his department.

1899, c. 373, s. 6.

3867. Appropriation. For carrying out the provisions of this chapter and for the payment of the salaries of the commissioner and assistant commissioner, the sum of three thousand and five hundred dollars annually is hereby appropriated to be paid by the state treasurer out of any funds not otherwise specifically appropriated.

1899, c. 373, s. 7.

CHAPTER 90.

CHARITIES.

- I. Public,
- II. Private,

Sections.
3868—3876
3877—3879

I. PUBLIC.

3868. Board of, created; election of members. There shall be elected by the general assembly five electors who shall be styled The Board of Public Charities of the State of North Carolina. The members of such board shall be elected as and when the terms of office of the present members of such board respectively expire, and the members shall hold their offices for two years. Such election shall be by the concurrent vote of the general assembly. Appointment to fill vacancies in the board arising from any cause whatsoever, except expiration of term, may be made for the residue of such term by the governor.

Code, s. 2331; 1868-9, c. 170, s. 1.

3869. Meetings; duties; expenses. The board shall hold regular meetings on the first Tuesday in January, April, July and October, and as often besides as they may deem needful. They shall make such rules and orders for the regulation of their own proceedings as they may deem proper. They shall investigate and supervise the whole system of the charitable and penal institutions of the state, and shall recommend such changes and additional provisions as they may deem needful for their economical and efficient administration. All office expenses and the printing of necessary blanks shall be paid by the state treasurer upon the warrant of the auditor.

Code, s. 2332; 1891, c. 491; 1870-1, c. 106.

3870. Reports on crime, vagrancy and pauperism. The general condition of the state as affected by crime, vagrancy and pauperism shall also come under the view of the board, and it shall be their duty to report to the general assembly when, in their judgment, it may become needful for the erection of the several reformatory institutions, whose organization is provided for in article eleven of the constitution.

Code, s. 2333; 1868-9, c. 170, s. 3.

3871. Reports on mental and physical infirmities. The board shall also give special attention to the causes of insanity, defect or loss of the several senses, idiocy and the deformity and infirmity of the physical organization. They shall, besides their own observation, avail themselves of correspondence and exchange of facts of the labors of others in these departments, and thus be able to afford the general assembly data to guide them in future legislation for the amelioration of the condition of the people, as well as to contribute to enlighten public opinion and direct it to interests so vital to the prosperity of the state.

Code, s. 2334; 1868-9, c. 170, s. 4.

3872. Reports on jails and almshouses. Personal visits may be required by the board of one or more of its members, or otherwise, to make careful investigation into the condition of the several county jails and almshouses, and the treatment of their unfortunate inmates, and report on these points, so that section six, article eleven of the constitution, may be enforced.

Code, s. 2335; 1868-9, c. 170, s. 5.

3873. Reports of their proceedings, and on state institutions. The board of public charities shall biennially prepare and submit to the general assembly a complete and full report of their doings during the preceding two years, showing the actual condition of all the state institutions under their supervision, with such suggestions as they may deem necessary and pertinent, which they shall print.

Code, s. 2338; 1868-9, c. 170, s. 8; 1870-1, c. 106.

3874. Insane and unfortunates, duty of board as to. Whenever the board shall have reason to believe that any insane person, not incurable, is deprived of proper remedial treatment, and is confined in any almshouse or other place, whether such insane person is a public charge or otherwise, it shall be the duty of said board to cause such insane person to be conveyed to the proper state hospital for the insane, there to receive the best medical attention. So also it shall be their care that all the unfortunate shall receive benefit from the charities of the state.

Code, s. 2336; 1868-9, c. 170, s. 6.

3875. Public institutions to furnish information. The board may require the superintendents or other officers of the several charitable and penal institutions of the state to report to them of any matter relating to the inmates of such institutions, their manner of instruction and treatment, with structure of their buildings, and to furnish them any desired statistics upon demand.

Code, s. 2337; 1868-9, c. 170, s. 7.

3876. Reports from county commissioners; penalties. The board of commissioners of each county shall in each year, on or before the first Monday in November, report to the board of public charities such information in regard to the number and condition of the inmates of their poorhouse and prison, together with the number of outside paupers, and the deaf, dumb, blind, idiotic and insane of their county not in a hospital, school or almshouse, and such other information as may be desirable, to get a complete view of the number and condition of these classes of persons in the state. The board of public charities shall prepare and furnish to the board of commissioners of each county carefully arranged circulars indicating the information desired, the blank columns of which shall be correctly filled in the report. It shall be lawful for the board of commissioners of each county in aid of this purpose to require the justices of the peace of each township in their county to prepare and furnish information to them of all the facts called for in the circular of the board of public charities.

Code, ss. 2339, 2340, 2341; 1868-9, c. 154.

NOTE. For penalty, see Crimes.

II. PRIVATE.

3877. Accounts to be filed by trustees. When real or personal property may have been granted by deed, will or otherwise, for such charitable purposes as are allowed by law, it shall be the duty of those to whom are confided the management of the property and the execution of the trust, to deliver in writing a full and particular account thereof to the clerk of the superior court of the county where the charity is to take effect, on the first Monday in February in each year, to be filed among the records of the court, and spread upon the record of accounts.

Code, s. 2342; R. C., c. 18, s. 1; 1832, c. 14, s. 1; 43 Eliz., c. 4.

3878. Actions for account; performance of trust. If the preceding section be not complied with, or there be reason to believe that the property has been mismanaged through negligence or fraud, it shall be the duty of the clerk of the superior court to give notice

thereof to the attorney general or solicitor who represents the state in the superior court for that county; and it shall be his duty to bring an action in the name of the state against the grantees, executors, or trustees of the charitable fund, calling on them to render a full and minute account of their proceedings in relation to the administration of the fund and the execution of the trust. The attorney general or solicitor may also, at the suggestion of two reputable citizens, commence an action as aforesaid; and, in either case, the court may make such order and decree as shall seem best calculated to enforce the performance of the trust.

Code, ss. 2343, 2344; R. C., c. 18, ss. 2, 3; 1832, c. 14, ss. 2, 3.

3879. Fees allowed solicitor. The court may allow fees to the attorney general or solicitor for his services, to be paid by the trustees, the estate or the county, as shall be ordered by the court.

Code, s. 2345; R. C., c. 18, s. 4; 1832, c. 14, s. 4.

CHAPTER 91.

DEPARTMENT OF AGRICULTURE.

	Sections.
I. Board of agriculture,	3880—3888
II. Commissioner of agriculture,	3889—3891
III. Duties of the department,	3892—3894
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VI. Concentrated commercial feeding stuffs,	3909—3916
VII. Pure-food,	3917—3926
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I. BOARD OF AGRICULTURE.

3880. Constitutional provision. The general assembly shall establish a department of agriculture, immigration and statistics, under such regulations as may best promote the agricultural interests of the state, and shall enact laws for the adequate protection and encouragement of sheep husbandry.

Const., Art. III, s. 17.

3881. Established; members appointed. The department of agriculture, immigration and statistics is created and established and shall be under the control of the commissioner of agriculture, with the consent and advice of a board to be styled "The Board of Agriculture." The board of agriculture shall consist of the commissioner

of agriculture, who shall be ex officio a member and chairman thereof and shall preside at all meetings, and of ten other members, one of whom shall be chosen from each congressional district. The members of such board shall be appointed by the governor by and with the consent of the senate, as and when the terms of the present incumbents respectively expire. The term of office of such members shall be six years and until their successors are duly appointed and qualified. Vacancies in such board shall be filled by the governor for the unexpired term.

Code, s. 2184; 1901, c. 479, ss. 2, 4.

3882. Compensation of members of the board. Each member of the board of agriculture shall receive four dollars for each day he attends a session of the board and for each day necessarily spent in traveling from and to his place of residence, and he shall receive also five cents a mile for the distance to and from Raleigh, by the usual direct route, for each meeting of the board which he attends. When attending any committee meeting each member of the committee, other than the chairman, shall receive the same per diem and mileage as is fixed for attending meetings of the board.

1901, c. 479, s. 3.

3883. Contracts for building and repairs forbidden. Neither the department of agriculture, the board of agriculture, the executive committee of such board, nor any person acting for or on behalf of such department, board or committee, shall have authority to contract for the erection or repair of buildings or for any additions thereto.

1899, cc. 45, 452.

3884. Powers of the board. The board shall be empowered to hold in trust and exercise control over donations or bequests made to it for promoting the interests or purposes of the department; and shall have general supervision and control of the finances of the department; and shall regulate the salaries of all officers and employees other than those whose salaries are fixed by law.

1901, c. 479, s. 3.

3885. Officers may be required to give bond, when. Bonds may be required for such amounts as the board may think best for all officers of the department who handle funds.

1901, c. 479, s. 14.

3886. Meetings of the board. The board shall meet for the transaction of business in the city of Raleigh twice a year, and oftener, if called by the commissioner of agriculture, one of which meetings shall be on the first Wednesday in December.

1901, c. 479, s. 3.

3887. Standing committees. The board shall elect from its body two standing committees, an executive committee of four and a finance committee of four. The commissioner shall be ex officio a member and chairman of each of these committees, thus making each committee consist of five members. The board shall prescribe the powers and duties of these committees, and the commissioner may call meetings thereof whenever in his opinion such meetings are desirable for the good of the department.

1901, c. 479, s. 3.

3888. Moneys to be paid into the state treasury. All moneys arising from tonnage charges on fertilizers and fertilizing materials, inspection taxes on cotton-seed meal and concentrated commercial feeding stuff, and from the sale of any property seized and condemned under the provision of this chapter, and all other moneys which may come into the hands of the commissioner of agriculture or other officer, member or employee of the department of agriculture by virtue of this chapter shall be paid into the state treasury by the commissioner of agriculture, and shall be kept on a separate account by the treasurer as a fund for the exclusive use and benefit of the department of agriculture.

Code, s. 2208; 1876-7, c. 174, s. 22.

II. COMMISSIONER OF AGRICULTURE.

3889. Election of; vacancy. The commissioner of agriculture shall be elected at the general election for other state officers, shall be voted for on the same ballot with such officers, and his term of office shall be four years, and until his successor is elected and qualified. Any vacancy in the office of such commissioner shall be filled by the governor, the appointee to hold until the next regular election to the office and the qualification of his successor.

1901, c. 479, s. 4.

3890. Secretary appointed; other employees. The commissioner of agriculture shall appoint a secretary and prescribe his duties and shall appoint such employees as may be necessary to the efficient prosecution of the duties of the department of agriculture.

1901, c. 479, s. 4.

3891. Special duties of. The commissioner of agriculture shall investigate all complaints made by purchasers of fertilizers, and render such services as he may be able in bringing about an adjustment and satisfactory settlement of such complaints. It shall be his

duty to ascertain as near as may be the actual cost of blood tankage, fish-scrap, nitrate of soda, cotton-seed meal, and other materials from which ammonia or nitrogen is obtained; the cost of all phosphate rock together with a description of the treatment with acids, the grinding and general manufacture of acid phosphate, and the actual cost thereof as near as may be and to communicate with dealers, both in this country and in Germany, as to the cost of muriate of potash, kainit and other sources of potash, and to publish the same in the Bulletin, but he shall not expose to the public the name of any manufacturer in this state who may give him information on this subject nor shall he divulge any information concerning the private business of any corporation or company manufacturing fertilizers solely in this state: Provided, such corporation or company is not a part or branch of any trust or combination. He shall also make and publish in every fertilizer bulletin a price-list of the market value of all the materials of which fertilizers are made and revise the same as often as may be necessary.

1901, c. 479, s. 4.

III. DUTIES OF THE DEPARTMENT.

3892. State chemist to be employed; duties of. The department of agriculture shall employ an analyst or state chemist, skilled in agricultural chemistry, and such assistants as may be necessary. It shall be the duty of the state chemist to analyze such fertilizers and products as may be required by this department, and to aid as far as practicable in suppressing fraud in the sale of commercial fertilizers. He shall also, under the direction of the department, analyze for citizens of the state such samples of ores, minerals, mineral and potable waters, soils, marls and phosphates as may be deemed by the department of benefit to the development of the material interests of the state, when such samples are supplied under rules by the department, and he shall carry on such other investigations as the department may direct. He shall make regular reports to the department of all analyses, assays, and experiments made, which shall be furnished when deemed needful to such newspapers as will publish the same.

1901, c. 479, s. 11.

3893. To investigate and report on timber interests. The department of agriculture shall investigate and report upon the conditions of the timber in North Carolina, and recommend such legislation as will promote the growth thereof and preserve the same.

1901, s. 479, s. 13.

3894. Special joint duties of commissioner and board. The commissioner of agriculture, by and with the consent and advice of the board of agriculture, shall:

1. Investigate and promote such subjects relating to the improvement of agriculture, the beneficial use of commercial fertilizers and composts, and for the inducement of immigration and capital as he may think proper; but he is especially charged—

2. With such supervision of the trade in commercial fertilizers as will best protect the interests of the farmers, and shall report to solicitors and to the general assembly information as to the existence or formation of trusts or combinations in fertilizers or fertilizing materials which are or may be offered for sale in this state, whereby the interests of the farmers may be injuriously affected, and shall publish such information in the bulletin of the department;

3. With investigations adapted to promote the improvement of milk and beef cattle, and especially investigations relating to the diseases of cattle and other domestic animals, and shall publish and distribute from time to time information relative to any contagious diseases of stock, and suggest remedies therefor, and shall have power in such cases to quarantine the infected animals and to regulate the transportation of stock in this state, or from one section of it to another, and may co-operate with the United States Department of Agriculture in establishing and maintaining cattle districts or quarantine lines, to prevent the infection of cattle from splenic or spanish fever. Any person wilfully violating such regulations shall be liable in a civil action to any person injured, and for any and all damages resulting from such conduct;

4. With investigations relative to the ravages of insects and with the dissemination of such information as may be deemed essential for their abatement and making regulations for destruction of such insects;

5. With investigations and experiments directed to the introduction and fostering of new agricultural industries, adapted to the various climates and soils of the state, especially the culture of truck and market gardens, the grape and other fruits;

6. With the investigation of the subject of drainage and irrigation and publication of information as to the best methods of both, and what surfaces, soils and locations may be most benefited by such improvements, also with the collection and publication of information in regard to localities, character, accessibility, cost and modes of utilization of native mineral and domestic sources of fertilizers, including formulæ for composting adapted to the different crops, soils and materials;

7. With the collection of statistics relating to the subject of farm

fences, with suggestions for diminishing their cost, and the conditions under which they may be dispensed with altogether;

8. With the supervision of all measures for the propagation and culture of fish in the rivers and inland waters of the state, and to this end may avail himself of such aid as the fish commission of the United States may be induced to extend, and shall offer such encouragement as may be within his power to induce such commission to establish within this state one of its fish hatcheries, and secure the liberation within the waters of this state of the spawn or fry of such fishes as are best suited to our inland streams; he may inquire into the practicability of construction of fishways over the dams and other obstructions of the waters of the state and secure as far as possible the co-operation of mill owners, and with the enforcement of the provisions of law in reference to the free passage of fish through certain waterways in the state;

9. With the enforcement and supervision of the laws which are or may be enacted in this state for the sale of commercial fertilizers, seeds and food products, and with authority to make regulations concerning the same;

10. With the inducement of capital and immigration by the dissemination of information relative to the advantages of soil and climate and to the natural resources and industrial opportunities offered in this state, by the keeping of a land registry and by the publication of descriptions of agricultural, mineral, forest and trucking lands which may be offered the department for sale; which publication shall be in tabulated form, setting forth the county, township, number of acres, names and addresses of owners, and such other information as may be needful in placing inquiring home-seekers in communication with land-owners; and he shall publish a list of such inquiries in the bulletin for the benefit of those who may have land for sale;

11. With such investigations as will best promote the improvement and extension of diversified farming, including the rotation of crops, the raising of home supplies, vegetables, fruits, stock grasses, etc.

12. With the holding of farmers' institutes in the several counties of the state, as frequently as may be deemed advisable, in order to instruct the people in improved methods in farming, in the beneficial use of fertilizers and composts, and to ascertain the wants and necessities of the various farming communities; and may collect the papers and addresses made at these institutes and publish the same in pamphlet form annually for distribution among the farmers of the state. He may secure such assistants as may be necessary or beneficial in holding such institutes.

13. The commissioner shall publish a monthly bulletin, which shall contain a list of the fertilizers and fertilizing materials registered for sale each year, the guaranteed constituents of each brand, reports of analyses of fertilizers, the dates of meeting and reports of farmers' institutes and similar societies, description of farm buildings suited to our climate and needs, reports of interesting experiments of farmers, and such other matters as may be deemed advisable.

14. He shall transmit to the general assembly at each session a report of the operations of the department with suggestions of such legislation as may be deemed needful.

15. He shall keep a museum or collection to illustrate the agricultural and other resources and the natural history of the state.

1901, c. 479, s. 4.

NOTE. The violation of the regulations provided for in subsections 3, 4 and 9 a misdemeanor, see Crimes.

IV. COMMERCIAL FERTILIZERS.

3895. Brands on packages to show analysis, weight, etc.; copy filed with department. Every bag, barrel or other package of fertilizers or fertilizing material offered for sale in this state shall have plainly printed or stamped thereon, or on a tag attached thereto, the following data: (1) Net weight of package; (2) Name of brand or trademark; (3) Guaranteed analysis, consisting of available phosphoric acid, nitrogen, potash; (4) Name and address of manufacturer; all of which must correspond identically with the registration as filed in the office of the commissioner of agriculture. A copy of such brand or stamp on the bag or other package, or on the label attached thereto, shall be filed with the commissioner of agriculture on or before delivery of such fertilizer to dealers, agents or consumers in this state; which brand or stamp shall be uniformly used, and shall not be changed during the fiscal year for which tags have been issued. Such brand, label or stamp shall truly set forth the name, location and trademark of the manufacturer, and that the requirements of the law have been complied with; also the chemical composition of the contents of such package and the real percentage of any of the following ingredients asserted to be present, to wit: Soluble and reverted phosphoric acid, soluble potassa, and ammonia.

1901, c. 479, s. 6; 1903, c. 755, ss. 1, 2.

3896. Sources of principal ingredients to be furnished to commissioner. There shall be delivered to the commissioner a statement of the materials or source from which the phosphoric acid, nitrogen and potash are each derived in each brand of goods reg-

istered, which statement and information therein contained shall not be disclosed by the department, unless the material set forth therein is such as would lower the standard of the fertilizer as registered. If the source of the ingredients is changed, notification thereof shall be promptly furnished to the department.

1901, c. 479, s. 6; 1903, c. 755, s. 3.

3897. Brands and trademarks regulated; standard of quality must not be lowered after registration. If the same fertilizer is sold under more than one name, a statement shall be furnished as to what brands are identical. A brand name entered by one person shall not be allowed to be registered by another; and no brand or name shall be allowed to be registered which is so nearly similar to another as to lead to uncertainty, confusion or fraud. The person whom the records of the department show to have first registered the name shall be permitted to retain it, subject, however, to appeal to the board to determine who is entitled to the brand; but the action of the board shall be without prejudice to the legal rights of the parties to the brand or trademark. No brand or name once registered shall be changed to a lower grade at any subsequent registration. The commissioner shall publish a list of brands or trademarks registered with the department.

1901, c. 479, s. 6; 1903, c. 755, s. 3.

3898. Requisites of lowest grade of fertilizer permitted to be sold. It shall be unlawful to sell or offer for sale fertilizers and fertilizing material not coming up to the following minimum requirement:

1. Any complete fertilizer containing phosphoric acid (P_2O_5), ammonia (NH_3), and potash (K_2O), when the sum of the available phosphoric acid, ammonia and potash do not amount to eleven per centum in the aggregate.

2. Any fertilizer containing phosphoric acid and potash when the sum of the available phosphoric acid and potash does not amount to ten per centum.

3. Any fertilizer containing phosphoric acid and ammonia, when the available phosphoric acid and ammonia do not amount to ten per centum.

4. Any fertilizer containing ammonia and potash when the sum of ammonia and potash do not amount to ten per centum.

5. Any acid phosphate which contains less than ten per centum of available phosphoric acid. No mixed fertilizer of any kind shall be sold which contains less than two per centum of ammonia or one per centum of potash or both when they are claimed in the same fertilizer.

1901, c. 479, s. 6.

3899. Sale of fertilizer below guaranteed quality; powers and duties of commissioner; penalty for fraud. Whenever the commissioner of agriculture shall be satisfied that any fertilizer is essentially below the guaranteed value in plant food, it shall be his duty to assess such deficiency against the manufacturer of the fertilizer, and require that the value of the deficiency be made good to all persons who purchased such low-grade fertilizer; and the commissioner may seize any fertilizer belonging to such manufacturer if the deficiency shall not be paid within thirty days after notice to such manufacturer. If the commissioner shall be satisfied that the deficiency in plant food was due to the intention or fraud of the manufacturer, then the commissioner shall assess and collect from the manufacturer twice the amount of the deficiency and pay over the same to the parties who purchased such fertilizer. If any manufacturer shall resist such collection or payment, the commissioner shall immediately publish the analysis and the facts in the bulletin and in such newspapers in the state as he may deem necessary.

1901, c. 479, s. 7.

3900. Use of certain ingredients forbidden. It shall be unlawful to sell or offer for sale in this state any fertilizer or fertilizing material which contains hair, hoof meal, horn, leather scraps or other deleterious substances not available as food for plants, but in which such forbidden materials aid in making up the required or guaranteed analysis. Whenever the analysis by the department shall show the presence of any of these unlawful materials in goods registered for sale, publication shall be made in the next monthly bulletin and in such newspapers as the commissioner may deem necessary, giving the name or brand of the goods and the unlawful substance contained in its composition. No manufacturer or seller of such goods shall be allowed to collect pay for the same, and when payment has been made it shall be returned by the seller to the purchaser. A copy of the bulletin containing the statement of the presence of unlawful materials in the named goods shall be evidence in any court in this state in bar of payment and for recovery of money paid for goods so named. The presence of any forbidden material shall vitiate the whole: Provided, that manufacturers who desire to use any such material may do so under such regulations as the board may prescribe, if it be shown they are available for a proper purpose.

1901, c. 479, s. 9.

Note. A violation of this section a misdemeanor, see Crimes.

3901. Authority to analyze samples. The department of agriculture shall have power at all times and at all places to have collected samples of any commercial fertilizer or fertilizing materials

offered for sale in this state, and have the same analyzed; and such samples shall be taken from at least ten per centum of the lot from which they may be selected.

1901, c. 479, s. 9.

3902. Officials and employees of carrier corporations may be required to furnish statements of fertilizer shipments. It shall be lawful for the department of agriculture to require the officers, agents or managers of any railroad, steamboat or other transportation company, transporting fertilizers or fertilizing material in the state, to furnish monthly statements of the quantity of such fertilizers, with the names of the consignor and consignee and the name of brand delivered on their respective lines at any and all points within this state. And the department is hereby empowered to compel such officers, agents, or managers to submit their books for examination if found expedient so to do.

1901, c. 479, s. 10.

Note. Refusal to furnish statements, etc., a misdemeanor, see Crimes.

3903. Seizure, condemnation and sale of fertilizers unlawfully sold. All fertilizers and fertilizing material sold or offered for sale contrary to the provisions of this chapter shall be subject to seizure, condemnation and sale by the commissioner. The commissioner, however, may, in his discretion, release the fertilizers so seized and condemned, upon the payment of the required tax or charge and all cost and expense incurred by the department in any proceedings connected with such seizure and condemnation and upon compliance with all other requirements of this title. The net proceeds of such sales shall be placed in the general fund of the department.

1901, c. 479, s. 5.

3904. Sale, how advertised and conducted. Such seizure and sale shall be made under the direction of the commissioner by an officer or agent of the department. The sale shall be made at the courthouse door in the county in which the seizure is made, after thirty days' advertisement in some newspaper published in such county, or, if no newspaper is published in such county, then by like advertisement in a newspaper published in the nearest county thereto having a newspaper. The advertisement shall state the brand or name of the goods, the quantity and why seized and offered for sale.

1901, c. 479, s. 5.

3905. Tonnage tax; exemption of certain material; tags; no other tax allowed. For the purpose of defraying expenses connected with the inspection of fertilizers and fertilizing materials in this

state, there shall be paid to the commissioner of agriculture a charge of twenty cents per ton on such fertilizers and fertilizing material, except that which is sold to a manufacturer for the sole purpose of use in the manufacture of fertilizers, for each fiscal year ending November thirtieth, which shall be paid before delivery to agents, dealers or consumers in this state; but the commissioner, with the advice and consent of the board, shall have discretion to exempt such natural material as may be deemed expedient. Each bag, barrel or other package of such fertilizers or fertilizing material shall have attached thereto a tag, stating that all charges specified in this section have been paid and the commissioner, with the advice and consent of the board, is hereby empowered to prescribe a form for such tags, and to adopt such regulations as will insure the enforcement of this law. Whenever any manufacturer of fertilizers or fertilizing materials shall have paid the charges required by this section, his goods shall not be liable to any further tax, whether by city, town or county.

1901, c. 479, ss. 5, 12.

Note. Selling or offering for sale fertilizers, etc., contrary to this section is a misdemeanor, see Crimes.

3906. Unlawful to sell or remove untagged and unbranded fertilizer; re-using tags to escape tax; sale of condemned goods regulated; penalty. Every merchant, trader, manufacturer or agent who shall sell or offer for sale any commercial fertilizer or fertilizing materials without having attached thereto such labels, stamps and tags as are required by law, or who shall use the required tag a second time to avoid the payment of the tonnage charge, and every person who shall remove any such fertilizer, shall be liable to a penalty of ten dollars for each separate bag, barrel or package sold, offered for sale or removed, to be recovered by any person who may sue for same. If any such fertilizer shall be condemned, as provided by law, it shall be the duty of the department to have an analysis made of the same and cause printed tags or labels expressing the true chemical ingredients thereof put upon each bag, barrel or package, and shall fix the commercial value at which it may be sold, and it shall be unlawful for any person to sell, offer for sale or remove any such fertilizer, or for any agent of any railroad or other transportation company to deliver any such fertilizer in violation of this section.

1901, c. 479, s. 8.

Note. A violation of this section a misdemeanor, see Crimes.

3907. Specimens of fertilizer may be accepted and distributed for experiment; report to be made. The department of agriculture may receive from any manufacturer or dealer in fertilizers any

specimen quantities, not less than a fourth of a ton, contributed by him, and have the same sent to different sections of the state for actual experiment by practical farmers; and the person so experimenting shall be required to make a careful report of the results, which shall be registered in the office of the department, and a certified copy of the same transmitted to the contributor.

Code, s. 2207; 1876-7, c. 174, s. 21.

V. COTTON-SEED MEAL.

3908. Inspection of; tax; how branded. All cotton-seed meal sold or manufactured in this state shall be inspected as required for other fertilizers or fertilizing materials, unless sold to manufacturers for use in manufacturing fertilizers. There shall be paid on each ton sold, unless to manufacturers for use in manufacturing fertilizers, a tax of twenty cents a ton to provide for the cost of inspection. All cotton-seed meal offered for sale, unless sold to manufacturers for use in manufacturing fertilizers, shall have plainly branded on the bag containing it, or on the tag attached thereto, the following data: (1) The words "Cotton-seed Meal;" (2) weight of package; (3) ammonia or nitrogen; (4) name and address of manufacturer. No such meal shall be offered for sale, except to manufacturers of fertilizers for use in manufacturing fertilizers, which contains less than seven and one-half per cent. of ammonia. The state board of agriculture shall make all such rules and regulations as are necessary to a proper carrying into effect the provisions of this section, and to provide for all such tags as manufacturers may demand, upon paying the tax therefor.

1903, c. 339, ss. 1-4.

VI. CONCENTRATED COMMERCIAL FEEDING STUFFS.

3909. Defined. The term "concentrated commercial feeding stuff" as herein used shall include linseed meals, cocoanut meals, gluten feeds, maize feeds, starch feeds, sugar feeds, dried brewers' grains, malt sprouts, dried distillers' grains, dried beet refuse, hominy feeds, cerealine feeds, rice meals, peanut meals, oat feeds, corn bran, ground beef or fish-scrap, mixed feeds, clover meal, and all materials of a similar nature. It shall not include hays and straws, the whole seeds, nor the unmixed meals made directly from the entire seed of wheat, rye, barley, oats, indian corn, buckwheat, broom corn, sorghum, cow-peas or soja beans. Neither shall it include pure grains ground together, nor wheat bran or wheat middlings, not mixed with other substances, but sold separately as distinct articles of commerce, nor the by-product (not corn bran alone,

but the bran portions of the germ and grain mixed) from the grinding of corn for meal, grits or hominy, when said by-products shall come up to the standard adopted by the board of agriculture; but should the whole grains, the unmixed meals, grains ground together, wheat bran, wheat middlings, or corn by-product be adulterated, they shall be subject to the provisions of this chapter.

1903, c. 325, ss. 2, 3.

3910. Sample of, how inspected. Every manufacturer, importer or person selling or offering for sale or exposing for sale in this state any concentrated commercial feeding stuff, as defined in the preceding section, shall, for each and every feeding stuff bearing a distinguishing name or trademark, file with the commissioner of agriculture a statement showing the name, brand, or trademark under which the article is sold, the name and address of the manufacturer, importer or jobber, and a statement of the maximum percentage it contains of crude fiber, and the minimum percentage of crude fat and of crude protein, allowing one per cent. of nitrogen to equal six and one-fourth per cent. of protein, all three constituents to be determined by the methods in use at the time by the association of official agricultural chemists of the United States. And accompany said statement, when so requested by the commissioner of agriculture, with a sealed glass jar or bottle containing at least one pound of the feeding stuff to be sold, exposed or offered for sale, which sample shall correspond, within reasonable limits, to the feeding stuff which it represents, in the percentages of protein, fat and fiber which it contains. The commissioner of agriculture shall have collected a sample not exceeding two pounds in weight for analysis, from any lot, parcel, or package of concentrated commercial feeding stuff as defined by the preceding section, or unmixed meals, ground grains, wheat bran, wheat middlings or corn by-products, named in the preceding section, which may be in the possession of any manufacturer, importer, agent or dealer, but said sample shall be taken from not less than ten per cent. of the whole lot inspected. One or more samples of each feeding stuff, collected as herein provided, shall be analyzed annually by the state chemist and his assistants, and the results published in the bulletin, together with such additional information in relation to the character, composition and use thereof as may seem to be of importance.

1903, c. 325, ss. 1, 4, 7.

3911. How branded. Every lot or parcel of concentrated commercial feeding stuff, as defined in preceding sections, used for feeding domestic animals or poultry, offered or exposed for sale within this state, shall have affixed thereto, or printed on the bag

or other package, in a conspicuous place on the outside thereof, a legible and plainly printed statement, clearly and truly certifying the number of net pounds of feeding stuff contained therein, the name, brand, or trademark under which the article is sold, the name and address of the manufacturer, importer or jobber, and a statement of the maximum percentage it contains of crude fiber, and the minimum percentage of crude fat and of crude protein, allowing one per cent. of nitrogen to equal six and one-fourth per cent. of protein, all three constituents to be determined by the methods in use at the time by the association of official agricultural chemists of the United States.

1903, c. 325, s. 1.

3912. Tax on. Every manufacturer, importer, jobber, agent or seller of any concentrated commercial feeding stuff, as defined in the preceding sections, shall pay to the commissioner of agriculture an inspection tax of twenty cents per ton for each ton of such concentrated feeding stuff sold, offered or exposed for sale in the state, and shall affix to each car shipped in bulk, and to each bag, barrel or other package of such concentrated feeding stuff, a tag, to be furnished by the said commissioner of agriculture, stating that all charges specified in this section have been paid. The commissioner of agriculture is hereby empowered to prescribe the form for such tags, and the board of agriculture is empowered to adopt standards for concentrated feeding stuffs and such regulations as may be necessary for the enforcement of this law. Whenever a manufacturer, importer, or jobber of a concentrated feeding stuff shall have filed the statement required by this chapter, and paid the inspection tax, no agent or seller of said manufacturer, importer, or jobber shall be required to file such statement or pay such tax.

1903, c. 325, s. 5.

3913. Sample of, and copy of statement to be filed. Each and every manufacturer, importer, jobber, agent or seller, before selling, offering or exposing for sale in this state any concentrated commercial feeding stuff, as defined in this subchapter, shall, for each and every feeding stuff bearing a distinguishing name or trademark, file with the commissioner of agriculture a copy of the statement required by the next preceding section, and accompany such statement, when so requested by the commissioner of agriculture, with a sealed glass jar or bottle containing at least one pound of the feeding stuff to be sold, exposed or offered for sale, which sample shall correspond, within reasonable limits, to the feeding stuff which it represents, in the percentages of protein, fat and fiber which it contains.

1903, c. 325, s. 4.

3914. Samples to be drawn; analysis and publication of the result. The commissioner of agriculture is authorized to have collected a sample, not exceeding two pounds in weight, for analysis, from any lot, parcel, or package of concentrated commercial feeding stuff as defined by this subchapter, or unmixed meals, ground grains, wheat bran, wheat middlings or corn by-product described in this subchapter, which may be in the possession of any manufacturer, importer, agent or dealer; but such sample shall be taken from not less than ten per centum of the whole lot inspected. One or more samples of each feeding stuff collected as herein provided shall be analyzed annually by the state chemist and his assistants, and the results published in the bulletin, together with such additional information in relation to the character, composition and use thereof as may seem to be of importance.

1903, c. 325, s. 7.

Note. To impede, etc., the collection of samples a misdemeanor, see Crimes.

3915. Seizure, condemnation and sale of contraband goods. Whenever any manufacturer, importer, jobber, agent or seller shall sell, offer or expose for sale or for distribution in this state any concentrated commercial feeding stuff as defined in this subchapter without complying with the requirements of this subchapter, or shall sell, or offer or expose for sale or distribution any concentrated commercial feeding stuff which contains substantially a smaller percentage of constituents than are certified to be contained, or shall adulterate any feeding stuff with foreign, mineral or other substances injurious to the health of domestic animals, the lot of feeding stuff in question shall be subject to seizure, condemnation and sale by the commissioner of agriculture, as prescribed for the seizure, condemnation and sale of commercial fertilizers in this state. The proceeds of such sales shall be covered into the state treasury for the use of the department of agriculture in executing the provisions of this subchapter.

1903, c. 325, s. 6.

Note. The violation of this section is a misdemeanor, see Crimes.

3916. Duties of commissioner in enforcing this subchapter. The commissioner of agriculture, upon ascertaining any violation of this subchapter for the first time, shall forthwith notify the manufacturer, importer or seller in writing, giving him not less than thirty days therefrom in which to comply with the requirements of this subchapter. In case of a subsequent violation by the same person, or in case, after a lapse of thirty days, the requirements of this subchapter remain still uncomplished with, it shall be the duty of the commissioner of agriculture to enforce the provisions of this subchapter; but there shall be no prosecution in relation to the quality of any concentrated

commercial feeding stuff, if the same shall be found to be substantially equivalent to the statement of analysis made by the manufacturer, importer or dealer.

1903, c. 325, s. 9.

VII. PURE FOOD.

3917. Manufacture and sale of impure food forbidden. No person, by himself or agent, shall knowingly manufacture, sell, expose for sale or have in his possession with intent to sell, any article of food which is adulterated or misbranded within the meaning of this subchapter.

1899, c. 86, s. 2.

Note. Violation of this section a misdemeanor, see Crimes.

3918. "Food" and "misbranded" defined. The term "food," as used in this subchapter, shall include all articles used for food, candy, condiments or drink, by man or domestic animals, whether simple, mixed or compound. The term "misbranded," as used therein, shall include all articles of food or articles which enter into the composition of food, the package or label of which shall bear any statement purporting to name any ingredients or substances as being contained or not being contained in such article, which statement shall be false in any particular.

1899, c. 86, s. 5.

3919. What constitutes adulteration. For the purposes of this subchapter an article of food shall be deemed adulterated—

1. If any substance has been mixed or packed with it, so as to reduce or lower or injuriously affect its quality or strength so that such product, when offered for sale, shall deceive or tend to deceive the purchaser.

2. If any inferior substance has been substituted wholly or in part for the article so that the product when sold shall deceive or tend to deceive the purchaser.

3. If any valuable constituent of the article has been wholly or in part abstracted so that the product when sold shall deceive or tend to deceive the purchaser.

4. If it be an imitation of, and sold under the specific name of, another article.

5. If it be mixed, colored, powdered, coated, polished or stained in a manner whereby damage or inferiority is concealed, so that such product when sold shall deceive or tend to deceive the purchaser.

6. If it contain any added poisonous ingredient, or any ingredient which may render such article injurious to the health of the person consuming it.

7. If it be labeled or branded so as to deceive or mislead the purchaser, or purport to be a foreign product when branded so, or in an imitation either in package or label of an established proprietary product, which has been trademarked or patented.

8. If it consists of the whole or any part of a diseased, filthy, decomposed or putrid animal or vegetable substance, or any portion of an animal unfit for food, whether manufactured or not, or if it is the product of a diseased animal or of any animal that has died otherwise than by slaughter.

9. Candies and chocolate shall be deemed to be adulterated if they contain terra alba, barytes, tale, chrome yellow or other mineral substances, or poisonous colors or flavors, or other ingredients deleterious or detrimental to health.

1899, c. 86, s. 6, c. 369.

Note. For sale of adulterated articles a misdemeanor, see Crimes.

3920. What does not constitute adulteration. An article of food, beverage, or condiment which does not contain any added poisonous ingredient shall not be deemed to be adulterated in the following cases:

1. In the case of articles, mixtures or compounds which may be now, or from time to time hereafter, known as articles of food, beverages or condiments under their own distinctive names, and not included in definition four of the next preceding section.

2. In the case of articles labeled, branded or tagged so as to plainly indicate that they are mixtures, compounds, combinations, imitations or blends.

3. When any matter or ingredient has been added to the food, beverage or condiment because the same is required for the production or preparation thereof as an article of commerce, in a state fit for carriage or consumption, and not fraudulently to increase the bulk, weight or measure of the food, beverage or condiment, or conceal the inferior quality thereof: Provided, the same shall be labeled, branded or tagged as prescribed by the board of agriculture so as to show them to be compounds and the exact character thereof.

4. Where the food, beverage or condiment is unavoidably mixed with some harmless extraneous matter, in the process of collection or preparation.

1899, c. 86, s. 6; 1899, c. 369.

3921. Compound, blended and mixed products to be branded. The board of agriculture is authorized to cause all compound, mixed or blended products to be properly branded and prescribe how this shall be done. And the board shall from time to time fix and publish the limits of variability permissible in any article of food, beverage or condiment, and these standards when so published shall

remain the standards before all courts; but when standards have been or may be fixed by the secretary of agriculture of the United States they shall be accepted by the board of agriculture and published as the standards for North Carolina.

1899, c. 86, ss. 7, 8.

3922. Samples to be analyzed and tested; result published.

For the purpose of protecting the people of the state from imposition by the adulteration and misbranding of articles of food, the board of agriculture shall cause to be procured from time to time, and under rules and regulations to be by it prescribed in accordance with the provisions of this subchapter, samples of food, beverages and condiments offered for sale in the state, and shall cause the same to be analyzed or examined microscopically or otherwise by the chemists or other experts of the department of agriculture. The board is authorized to make such publications of the results of the examinations and analyses as it may deem proper.

1899, c. 86, s. 1.

3923. Samples for analysis, how procured. Every person who exposes for sale, or delivers to a purchaser any condiment, beverage or article of food shall furnish a sample thereof, in sufficient quantity for analysis, to any person duly authorized by the board of agriculture to secure the same, whenever such representative of the board shall demand such sample within business hours and shall tender and pay the selling price thereof.

1899, c. 86, s. 9.

Note. Refusal to comply with this section, or attempts to impede its enforcement, a misdemeanor, see Crimes.

3924. Analysis showing adulteration; solicitor's duty. The chemists or other experts of the department of agriculture shall make, under rules and regulations prescribed by the board of agriculture, examinations of specimens of food, beverages and condiments offered for sale in North Carolina which may be collected from time to time in various parts of the state under the direction of the board. If it shall appear from such examination that any of the provisions of this chapter have been violated, the commissioner of agriculture shall at once certify the facts to the proper solicitor, and furnish that officer a copy of the result of the analysis duly authenticated by the analyst under oath; whereupon such solicitor shall cause proceedings to be commenced and prosecuted without delay for the fines and penalties in such cases provided.

1899, c. 86, ss. 3, 4.

3925. Exemptions from the operation of this subchapter. Nothing in this subchapter shall apply to proprietary or patent medi-

cines; nor shall this subchapter be construed to require or compel proprietors or manufacturers of proprietary foods to disclose their trade formulas except in so far as may be necessary in order to secure freedom from adulteration or imitation. It shall be the duty of the board of agriculture to prepare and publish from time to time lists of the articles, mixtures or compounds declared to be exempt from the provisions of this subchapter under this section. No person shall be convicted under the provisions of this subchapter when he is able to prove a written guaranty of purity, in a form approved by the board of agriculture, as published in its rules and regulations, signed by the wholesale jobber, manufacturer or other person from whom he purchased such article.

1899, c. 86, ss. 6, 8.

3926. Commerce not interfered with. This subchapter shall not be construed so as to interfere with interstate commerce.

1899, c. 86, s. 11.

VIII. CROP PESTS.

3927. Commission to exterminate created; expenses. The commissioner of agriculture, the director of the agricultural experiment station, and the president of the North Carolina state horticultural society are hereby constituted a commission for the extermination of noxious insects, fungus diseases and weeds which are affecting or may affect crops. They are empowered to select one of their members chairman and to adopt rules and regulations for their own government, such as may be requisite for carrying out the provisions of this subchapter. They shall be allowed no salaries, and shall be allowed only their necessary expenses in attending the meetings of the commission.

1897, c. 264, s. 1.

3928. Powers and duties of the commission. The commission shall, from time to time, as it may deem necessary, prepare and publish a list of dangerous crop pests, known to be within the state, or liable to be introduced, and shall also publish methods for exterminating such pests as it may deem capable of being economically exterminated, and for repressing such as cannot be economically exterminated, and for preventing their spread within the state. It may also adopt regulations not inconsistent with the laws or constitution of this state and of the United States, for preventing the introduction of dangerous crop pests from without the state, and for governing common carriers in transporting plants liable to harbor such pests to and from the state; which regulations shall have the force of law.

1897, c. 264, s. 2.

3929. Summary remedies for eradication; unlawful to harbor.

No person shall knowingly and wilfully keep upon his premises any plant infested by any dangerous crop pest, listed and published as such by the commission, or permit dangerous weed pests to mature seed or otherwise multiply upon his land, except under such regulations as the commission may prescribe. All such infested plants and premises are hereby declared public nuisances. The owner of such plants or premises shall, when notified to do so by the commission, take such measures as may be prescribed to eradicate such pests. If such action is not taken, or is improperly executed within ten days after such notification, the commission shall cause such premises to be freed from such pests by the best available method. The cost of such work shall be a lien upon the premises, and may be recovered, together with cost of action, before any court having jurisdiction. The notice shall be written and mailed to the usual or known address, or left at the ordinary place of business of the owner or his agent. No damages shall be awarded the owner of such premises for entering thereon and destroying or otherwise treating any infested plant or crop, when done by the order of the commission.

1897, c. 264, s. 3.

3930. Right to enter and inspect premises. Whenever the commission has reason to suspect that any pest, listed as dangerous, exists in any portion of the state, it shall cause an investigation to be made by some person capable of determining the specific identity of such pest, and, if it be found to exist, the commission shall further appoint a competent person as its agent to inspect such infested premises, and to take such measures for treating the same as they may direct. Any duly authorized agent of the commission shall have authority to enter upon and inspect any premises between the hours of sunrise and sunset during every working day of the year.

1897, c. 264, s. 4.

Note. To prevent inspection or to interfere with agents a misdemeanor, see Crimes.

3931. Reports to the governor. The commission shall report to the governor, for transmission to the general assembly, its acts and disbursements under this subchapter. Such report, together with all such circulars as may be issued by the commission for the purposes of this subchapter shall be printed in editions of one thousand copies by the public printer, and shall be paid for as other public printing.

1897, c. 264, s. 6.

3932. Appropriation and method of disbursement. For the purpose of carrying out the provisions of this subchapter, the sum of five

hundred dollars is annually appropriated out of any funds in the treasury not otherwise appropriated, which sum,, or so much thereof as may be necessary, shall be paid by the treasurer upon vouchers signed by the chairman of the commission.

1897, c. 264, s. 5.

CHAPTER 92.

EDUCATION.

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I. APPLICATION OF CHAPTER.

3933. This chapter not applicable to certain schools; such schools regulated. The provisions of this chapter shall not apply to any township, city or town now levying a special tax for schools and operating under special laws or charters, or to schools operating under section forty-seven, chapter one hundred and ninety-nine, laws of one thousand eight hundred and eighty-nine. School districts in any city or town now operating under section forty-seven, chapter

one hundred and ninety-nine, laws of one thousand eight hundred and eighty-nine, are hereby continued, and all vacancies in the school committees therein shall be filled by the county board of education. If such districts comprise a township there shall not be appointed township school committeemen for such township, and all apportionments shall be made directly to the committee of such districts. All such schools receiving any part of the public school fund shall be required to make to the state superintendent and the county superintendent such reports as these officers shall demand, and as are made by other public schools to them, and shall be under the general supervision of the state superintendent of public instruction.

1901, c. 4, s. 73; 1903, c. 435, s. 25.

II. STATE BOARD.

3934. Incorporated. The governor, lieutenant governor, secretary of state, treasurer, auditor, superintendent of public instruction, and attorney general shall constitute the state board of education, and by the name, the State Board of Education, are created a corporation, and by that name may sue and be sued; may have a common seal; may acquire, receive and hold real, personal and mixed property by purchase, gift, devise or otherwise, and may sell, dispose of and convey the same; and may contract and be contracted with for the purposes provided in this chapter and for such other purposes as may be prescribed by law, and to that end may make such by-laws for its government and the exercise of its powers, and alter the same from time to time in its discretion, as shall not be in conflict with the laws of the state and of the United States; and shall be vested with all other powers conferred upon corporations under the general law relating to corporations.

Const., Art. IX, ss. 8, 9, 10; Code, s. 2503; 1881, c. 200; 1903, c. 567, s. 7.

3935. Officers; quorum; meetings; expenses. Of the board, the governor shall be president, the superintendent of public instruction shall be secretary, and the treasurer of the state shall be treasurer, and a majority of the board shall constitute a quorum for the transaction of business. The board shall hold its meetings in the executive office, and shall meet at such times as a majority of the members may appoint; but the governor may call a meeting at any time. The contingent expenses of the board shall be provided for by the general assembly.

Const., Art. IX, ss. 9, 12, 13; Code, s. 2504; 1881, c. 200, s. 2.

3936. Proceedings recorded. All the proceedings of the board shall be recorded in a well bound and suitable book, which shall be kept in the office of the superintendent of public instruction.

Code, s. 2505; 1881, c. 200, s. 3.

3937. Succeeds to powers and property, etc., of literary fund.

The state board of education shall succeed to all the powers and trusts of the "president and directors of the literary fund of North Carolina," and shall have full power to legislate and make all needful rules and regulations for the government of the public schools and for the management of the state educational fund. But all such acts, rules and regulations of the board may be altered, amended or repealed by the general assembly, and when so altered, amended or repealed shall not be re-enacted by the board; and the board shall succeed to and have all the property, powers, rights, privileges and advantages which in anywise belonged or appertained to the "president and directors of the literary fund of North Carolina," and may, in its own name, assert, use, apply and enforce the same.

Const., Art. IX, s. 10; Code, s. 2506; 1881, c. 200, s. 4; R. C., c. 66; R. S., cc. 66, 67.

3938. Accounts kept; reports made.

The state treasurer shall keep a fair and regular account of all the receipts and disbursements of the state literary fund, and shall report the same to the general assembly at the same time when he makes his biennial account of the ordinary revenue; and the state board of education shall report to the general assembly the manner in which the fund has been applied or invested, with such recommendations for the improvement of the same, as to it shall seem expedient.

Code, s. 2507; R. C., c. 66, s. 4; 1825, c. 1268, s. 2; 1903, c. 567, s. 1.

3939. How funds invested.

The state board of education is authorized to invest in North Carolina four per cent. bonds or in other safe interest-bearing securities, the interest on which shall be used as may be directed from time to time by the general assembly for school purposes.

1891, c. 369.

NOTE. For apportionment of literary fund, see s. 3998.

III. SWAMP LANDS.

3940. Reclaimed by state board. The state board of education shall be invested with full power to adopt all necessary ways and means for causing so much of the swamp lands to be surveyed as it may deem capable of being reclaimed, and shall cause to be constructed such canals, ditches, roads and other necessary works of improvement as it may deem proper and necessary.

Code, s. 2508; R. C., c. 66, s. 5; R. S., c. 67, s. 5; 1885, c. 70, ss. 1, 2, 4; 1899, c. 253, s. 5.

3941. How expenditures authorized for. The state board of education shall not lend or expend any part of the public moneys, stocks, funds or property vested in it by law, or under its control, for the purpose of reclaiming lands, or for any other purpose whatsoever, except by the direction of the general assembly.

Code, ss. 2515, 2530; R. C., c. 66, s. 12; 1870-1, c. 279.

3942. Purchase and exchange of. Whenever, in the process of draining, it may be necessary, in order to prevent a sacrifice of the interests of the state, to purchase small tracts owned by individuals, the corporation may buy them, or exchange for them some other portions of the swamp lands; and the lands thus acquired by the corporation shall be held by it as other swamp lands.

Code, s. 2517; R. C., c. 66, s. 14.

3943. How title to, vests in board. Whenever it shall be necessary to construct any such works on the lands of any individual proprietor, his written consent, without any formal deed of conveyance of the lands necessary to the work and its future enjoyment, shall vest the title thereof in the corporation forever; and when any infant or person non compos mentis or feme covert shall be owner thereof, his guardian shall be authorized to give such consent; and the feme covert and her husband may do so, without any private examination; and the consent so given shall be valid for all purposes.

Code, s. 2509; R. C., c. 66, s. 6; R. S., c. 67, s. 6.

3944. Condemnation of lands; entry on lands for surveying. Whenever the consent of the proprietor shall be withheld, the corporation's agents may enter on the lands and lay off so much as may be necessary to be used in such work, the value of which shall be assessed to the proprietor according to law; and, upon the payment thereof, the title shall be vested in the corporation forever. In the assessment of valuation, the benefit that will accrue to the proprietor by reason of the improvement may be likewise reckoned and set off against the damages. The proceedings for such condemnation shall be the same as are provided for condemnation of lands by railroad corporations. And the corporation's officers and agents shall have a right to enter upon the lands of all persons whomsoever, for the purpose of surveying.

Code, ss. 2510, 2513; R. C., c. 66, s. 7; R. S., c. 67, s. 7.

3945. Private lands assessed for benefits. When there are lands owned by individuals which can be reclaimed by reason of the canals, ditches or other works of the corporation, the same shall be assessed to contribute an equitable proportion of the cost of said

works; which assessment shall be made by the board, or a board of commissioners appointed by them, and the same shall be charged on the lands; but the corporation, by contract with individual proprietors may agree upon the assessment, and accept payment thereof in labor or money.

Code, s. 2511; R. C., c. 66, s. 8; R. S., c. 67, s. 8.

3946. Rules for surveying, reclaiming and assessing. The state board of education may enact all necessary rules and regulations for surveying and reclaiming the swamp lands; for assessing the lands of individuals which may be improved by the works, and for collecting assessments; and the assessments shall be published weekly for five weeks in one of the newspapers published in Raleigh, and also filed in the office of the clerk of the superior court of the county wherein the lands assessed are situate. If no objections are filed at the court next after such advertisement, the assessments shall be confirmed by the court and the lands adjudged liable for the amount, and execution may be issued for the sale thereof to satisfy the same, on motion to the court for that purpose; and if any reasons be shown against the assessments, they shall be heard and determined by the court, and the assessments shall be increased or diminished, as the court shall adjudge.

Code, s. 2512; R. C., c. 66, s. 9; R. S., c. 67, s. 9; 1899, c. 253; 1901, c. 529.

3947. Engineer, surveyor and other servants. The state board of education may appoint an engineer and surveyor and other servants to plan the works directed by this chapter, and such board may annually appoint an agent to superintend and supervise all the swamp lands belonging to the state board of education.

Code, ss. 2512, 2523; R. C., c. 66, ss. 9, 20; R. S., c. 67, s. 9; 1854, c. 48; 1899, c. 253, ss. 1, 2, 5; 1901, c. 529.

3948. Agent's duties. Such agent shall devote his entire attention to the business; abandon all prior engagements that may conflict with the interest of the state board of education; aid and assist counsel in the preparation and trial of all suits that may be directed by the corporation; collect information as to the location and value of all such lands; survey or have surveyed such tracts of such lands, or such other lands necessary to ascertain the location of lands belonging to the corporation as he may deem necessary, under the direction of the corporation. He shall make reports from time to time to the corporation of all the information he obtains, with such suggestions as he may deem proper; and shall prepare a statement of each tract of land owned by the corporation and its location, quantity, as well as ascertained and probable value, distinguishing between those tracts the title to which is doubtful, or

good; and this statement shall be recorded by him in a book to be kept by the corporation and in a manner, by index or otherwise, easy for reference.

Code, s. 2524; R. C., c. 66, s. 21; 1899, c. 253, s. 3.

3949. Agent may be removed. The agent may be removed by the state board of education at any time and another appointed to supply the vacancy, the agent removed being paid a pro rata compensation. The agency may be continued in the discretion of the board.

Code, s. 2525; R. C., c. 66, s. 22; 1899, c. 253, s. 4; 1901, c. 529.

3950. Forfeiture of, for failure to register deeds. All the grants and deeds for swamp lands, heretofore made, must have been proved and registered in the county where the lands are situate, within twelve months from November first, one thousand eight hundred and eighty-three, and every such grant or deed, not being so registered within that time, shall be void, and the title of the proprietor in such lands shall revert to the state; but the provisions of this section shall be applicable to the swamp lands only which have been surveyed or taken possession of by, or are vested in, the state board of education, or its agents.

Code, ss. 2513, 3866; R. C., c. 66, s. 10; R. S., c. 67, s. 10.

3951. Title presumed to be in the board; tax titles presumed valid. In all controversies and suits for any of the swamp lands, to which the state board of education or its assigns shall be a party, the title to such lands shall be taken and deemed to be in that corporation or its assigns until the other party shall show that he hath a good and valid title to such lands in himself. And in all controversies touching the title to or the right of possession to any lands claimed by the state, the state board of education or the University of North Carolina, under any sale for taxes at any time heretofore made or which hereafter may be made, the deed of conveyance made by the sheriff or other officer or person making such sale, or who may have been authorized to execute such deed, shall be presumptive evidence that the lands therein mentioned were, at the time the lien for such taxes attached and at the time of the sale, the property of the person therein designated as the delinquent owner; that such lands were subject to taxation; that the taxes were duly levied and assessed; that the lands were duly listed; that the taxes were due and unpaid; that the manner in which the listing, assessment, levy and sale were conducted was in all respects as the law directed; that all the prerequisites of the law were duly complied with by all officers or persons who had or whose duty it was to have had any part or action in any transaction relating to or affecting

the title conveyed or purporting to be conveyed by the deed, from the listing and valuation of the property up to the execution of the deed, both inclusive; and that all things whatsoever required by law to make a good and valid sale and vest the title in the purchaser were done, and that all recitals in such deed contained are true as to each and every of the matters so recited. And in all controversies and suits involving the title to real property claimed and held under and by virtue of a deed made substantially as above the person claiming title adverse to the title conveyed by such deed shall be required to prove, in order to defeat such title, either that the real property was not subject to taxation for the year or years named in the deed, that the taxes had been paid before the sale, that the property had been redeemed from the sale according to the provisions of law and that such redemption was had or made for the use or benefit of persons having the right of redemption under the laws of this state, or that there had been an entire omission to list or assess the property or to levy the taxes or to sell the property; but no person shall be permitted to question the title acquired under such sale and deed without first showing that he or the person under whom he claims title had title to the property at the time of the sale, and that all taxes due upon the property have been paid by such person or the person under whom he claims title.

Code, s. 2527; R. C., c. 66, s. 24; 1842-3, c. 36, s. 3; 1889, c. 243.

3952. Statute of limitations. No statute of limitation shall affect the title or bar the action of the state board of education, or its assigns, unless the same would protect the person holding and claiming adversely against the state.

Code, s. 2528; R. C., c. 66, s. 25; 1842-3, c. 36, s. 5.

3953. Sale of. The state board of education is authorized and directed to sell and convey the swamp lands at public or private sale at such times, for such prices, in such portions and on such terms as to it may seem proper; but it shall not sell at a price less than twelve and one-half cents per acre. It shall report each sale to the next session of the general assembly. The proceeds, as also money received on entries of vacant land, shall become a part of the state literary fund. The corporation shall not sell any canal by it constructed under this chapter.

Code, ss. 2514, 2515, 2529; 1872-3, c. 194, s. 2; 1889, c. 243, s. 4; R. C., c. 66, s. 12.

3954. Reservations to the state, in sales. In any sale which shall be made by the state board of education the following powers shall be expressly reserved to the state, to be exercised under such laws as are now or may be enacted by the general assembly:

1. To make any expedient regulations respecting the repair of the canals which have been cut by the state, or enlargement of such canals.

2. To impose taxes on the lands benefited by those canals for their repair, and which shall not be closed.

3. That the navigation of the canals shall be free to all persons, subject to a right in the state to impose tolls.

4. That all land owners on the canals may drain into them, subject only to such general regulations as now are or hereafter may be made by the general assembly in such cases.

5. That the roads along the banks of the canals shall be public roads.

Code, s. 2534; 1872-3, c. 118.

3955. Actions by the board; counsel; compromise. The state board of education may employ counsel learned in the law to aid and assist it in the investigation and prosecution of its title to any of the swamp lands; and may compromise upon such terms as to it shall seem reasonable and just, for the title, so as to secure the corporation an indefeasible right in such lands.

Code, s. 2516; R. C., c. 66, s. 13.

3956. Actions and surveys by others for the board. The state board of education shall have full power and authority to agree with any person to prosecute its claim to any swamp lands in any county or counties, or to survey and identify its lands in such counties, and allow to such person a share of any such land as a compensation for his services.

Code, s. 2526; R. C., c. 66, s. 23; 1854, c. 48.

NOTE. Swamp lands defined, see s. 1678.

IV. SCHOOL-HOUSE LOANS.

3957. Made by state board. The state board of education, under such rules and regulations as it may deem advisable, not inconsistent with the provisions of this chapter, may make loans from the state literary fund to the county board of education of any county for the building and improving of public school-houses in such county. But no warrant for the expenditure of any money for such purposes shall be issued by the auditor except upon the order of the state superintendent of public instruction, with the approval of the state board of education.

1903, c. 567, ss. 1, 2, 8.

3958. Terms of. Loans made under the provisions of this chapter shall be payable in ten instalments, shall bear interest at four

per centum payable annually, and shall be evidenced by the note of the county board of education, executed by the chairman and secretary thereof, and deposited with the state treasurer. The first instalments of such loan, together with the interest on the whole amount then due, shall be paid by the county board on the tenth day of February after the tenth day of August subsequent to the making of such loan, and the remaining instalments, together with the interest, shall be paid one each year, on the tenth day of February of each subsequent year till all shall have been paid.

1903, c. 567, s. 3.

3959. How secured and paid. At the January meeting of the county board of education, before any instalment shall be due on the next tenth day of February, the county board shall set apart out of the school funds an amount sufficient to pay such instalment and interest to be due, and shall issue its order upon the treasurer of the county school fund therefor, who, prior to the tenth day of February, shall pay over to the state treasurer the amount then due. And any amount loaned under the provisions of this law shall be a lien upon the total school funds of such county in whatsoever hands such fund may be, and upon failure to pay any instalment or interest, or part of either when due, the state treasurer may deduct a sufficient amount for the payment of the same out of any fund due any county from any special state appropriation for public schools, or he may bring action against the county board of education of such county, any person in whose possession may be any part of the school funds of the county, and the tax collector of such county. And if the amount of school fund then on hand be insufficient to pay in full the sum so due, then the state treasurer shall be entitled to an order directing the tax collector of such county to pay over to the state treasurer all moneys collected for school purposes until such debt and interest shall have been paid.

1903, c. 567, s. 4.

3960. Loans by county boards to school districts. The county board of education, from any sum borrowed under the provisions of this chapter, may make loans to any district in such county for the purpose of building school-houses in such district, and the amount so loaned to any district shall be payable in ten annual instalments, with interest thereon at four per centum payable annually. At the January meeting of such county board it shall deduct from the apportionment made to any district which has borrowed under the provisions of this chapter, the instalment and interest then due, and shall continue to deduct such amount at each annual

January meeting until the whole amount shall have been paid, together with interest.

1903, c. 567, s. 5.

V. TEXT-BOOK COMMISSION.

3961. Created. The state board of education is hereby constituted a state text-book commission, whose duty it is to select and adopt a uniform series or system of text-books for use in the public schools in the state of North Carolina; and who shall serve without compensation. The governor shall be, *ex officio*, president of such commission, and the superintendent of public instruction its secretary.

1901, c. 1, ss. 1, 2, 7, 20.

3962. Powers; term of contracts made by. The commission may, from time to time, make any necessary regulations not contrary to the provisions of this chapter, to secure the prompt distribution of the books herein provided for, and the prompt and faithful performance of all contracts. After the expiration of the contracts now in force for furnishing books to the public schools the commission may advertise for new bids, or proposals, as required by this chapter, and enter into such other contracts as they may deem best for the interest of the patrons of the public schools of the state. Any contract entered into, or renewed, shall be for the term of five years.

3963. Term of office and powers. The commission shall maintain its organization during the five years of the continuance of the contract now in force and after the expiration of the same shall advertise for new bids, or proposals, as required by this chapter in the first instance, and enter into such other contracts as it may deem best for the interest of the patrons of the public schools of the state; and the commission may from time to time make any necessary regulations not contrary to the provisions of this chapter to secure the prompt distribution of the books herein provided for and the prompt and faithful performance of all contracts.

1901, c. 1, s. 14.

3964. Character and requisites of books to be adopted. The uniform series of text-books to be selected by the commission shall include the following branches, to-wit: Orthography, defining, reading, writing, drawing, arithmetic, geography, grammar, language lessons, history of North Carolina containing the constitution of the state, history of the United States containing the constitution of the United States, physiology, hygiene, nature and effect of alco-

holic drinks and narcotics, elements of civil government, elements of agriculture, theory and practice of teaching. None of such text-books shall contain anything of a partisan or sectarian character, and all shall be written or printed in English.

1901, c. 1, ss. 2, 8.

3965. Exclusive use of books adopted by. The books adopted by the commission as a uniform system of text-books shall be introduced and used as text-books, to the exclusion of all others, in all the public free schools in the state for a period of five years from the date of adoption; and it shall not be lawful for any school officer, director or teacher to use any books upon the same branches other than those adopted by the commission. Nothing herein shall prevent the use of supplementary books; but such supplementary books shall not be used to the exclusion of the books prescribed or adopted under the provisions of this chapter. Nor shall anything herein prevent the teaching in any school any branch higher or one more advanced than is embraced in the next preceding section; nor the use of any book upon such higher branch of study; but such higher branch shall not be taught to the exclusion of the branches mentioned and set out in the next preceding section.

3966. Can purchase elsewhere when contractor fails to supply; teacher allowing other books dismissed. Nothing herein shall prevent or prohibit the patrons of the public schools throughout the state from procuring books in the usual way, in case no contract shall be made, or the contractor fails, or refuses, to furnish the books provided for in this chapter at the time required for their use in the respective schools. If any teacher shall wilfully use, or permit to be used, in his school, any text-book upon the branches embraced in this chapter, where the commission has adopted a book upon that branch, other than the one so adopted, the county board of education shall discharge and cancel the certificate of such teacher, or school superintendent; but they may use, or permit to be used, such book, or books, as may be owned by the pupils of the school at the time of the adoption until such books are worn out, not exceeding one year from the date of the adoption.

1901, c. 1, ss. 2, 16, 17, 18.

3967. Subcommission to be appointed. It shall be the duty of the governor to appoint a subcommission of not less than five, nor more than ten, to be selected from among the teachers, or city or county superintendents, actually engaged in the school business in this state, not more than two of whom shall be taken from the same congressional district.

1901, c. 1, s. 3.

3968. Oath of subcommissioners. Each member of the subcommission, before entering upon the discharge of his duties, shall take and subscribe an oath to act honestly, conscientiously and faithfully, and that he is not now, and has not, within two years prior to his appointment, been agent or attorney for or in the employment of, or interested in, any book or publishing house, concern, or corporation, making, or proposing to make, bids for the sale of books, pursuant to the provisions of this chapter; and that he will carefully and faithfully examine all books submitted, and make true report thereon, as herein directed and prescribed. Such oath shall be filed in the office of the secretary of state.

1901, c. 1, s. 5.

3969. Examination of books by subcommission, and report thereon. To the subcommission shall be referred all books sent to the state text-book commission as specimen copies or samples, upon which bids are to be based; and it shall be the duty of the subcommission, in executive session, to examine and report upon the merits of the books, irrespective of the price; taking into consideration the subject-matter of the books, their printing, their material, and their mechanical qualities, and their general suitability and desirability for the purposes for which they are desired and intended. The subcommission shall report to the commission at such time as the commission shall direct, arranging each book in its class, or division, and reporting books in the order of their merit, pointing out the merits and demerits of each, and indicating what book it recommends for adoption first, what book is its second choice, and its third choice, and so on, pursuing this plan with the books submitted upon each branch of study; and if the subcommission shall consider different books upon the same subject, or of the same class or division, of approximately even merit, all things being considered, it shall so report, and if it considers that any book offered is of such a class as to make it inferior and not worthy of adoption, shall, in its report, so designate such book. In its report it shall make such recommendations and suggestions to the commission as it shall deem advisable and proper to make.

1901, c. 1, ss. 3, 4.

3970. Report, when opened and where filed. The report of the subcommission shall be kept secret and sealed up, and delivered to the secretary of the commission, and shall not be opened by any member of the commission until the commission shall meet in executive session to open and consider the bids, or proposals, of publishers or others, desiring to have books adopted by the commission. And when such commission shall have finished with such report it shall be filed and preserved in the office of the state superintendent.

ent of public instruction, and shall be open at all times for public inspection.

1901, c. 1, ss. 4, 6.

3971. Selection and adoption of books by the commission.

The commission in its selection and adoption of a uniform series of text-books, shall consider the merits of the books, taking into consideration their subject matter, the printing, binding, material, and mechanical quality, their general suitability and desirability for the purposes intended, and the price; and shall give due consideration to the report and recommendation of the subcommission. The commission shall select and adopt such books as will, in its best judgment, accomplish the ends desired; and is hereby authorized and directed, in case any books are deemed by it suitable for adoption, and more desirable than other books of the same class, or division, submitted, and it further considers the price at which such books are offered to be unreasonably high, and that they should be offered at a smaller price, to immediately notify the publisher of such books of its decision and request such reduction in price as it deems reasonable or just, and if it and such publishers shall agree on a price, it may adopt such books; but if not, it shall use its sound judgment and discretion whether to adopt those or the books deemed by it the next best in the list submitted.

1901, c. 1, s. 6.

3972. Advertisement for bids. As soon as practicable after the expiration of the now existing contracts, and not later than thirty days thereafter, the commission shall advertise in such manner, and for such a length of time, and at such places as may be deemed advisable, that at a time and place fixed definitely in the advertisement, sealed bids, or proposals, will be received from the publishers of school text-books for furnishing books to the public schools in the state of North Carolina, through agencies established by the publishers in the several counties, and in the several places in the counties in the state, as may be provided for in such regulations as the commission may adopt and prescribe. The advertisement shall also state in substance the requirements of the next succeeding section, and shall reserve the right to the commission to reject all bids.

1901, c. 1, ss. 1, 7, 11, 14.

3973. Bids, how made; contents of. The bids or proposals shall be for furnishing books for a period of five years, and no longer, and no bid for a longer period shall be considered. The bids shall state specifically and definitely the price at which books are to be furnished and shall be accompanied by ten or more specimen cop-

ies of each and every book proposed to be furnished; and it shall be required of each bidder to deposit with the treasurer of the state a sum of money, such as the commission may require, not less than five hundred nor more than twenty-five hundred dollars, according to the number of books each bidder may propose to supply; and such deposits shall be forfeited absolutely to the state if the bidder making the deposit of any sum shall fail, or refuse, to make and execute such contract and bond, as is hereinafter required, within such time as the commission shall require. All bids shall be sealed and deposited with the secretary of state, to be by him delivered to the commission when in executive session, for the purpose of considering the same, when they shall be opened in the presence of the commission. And each person, or publisher, making a bid for the supplying of any books, shall state in such bid, or proposal, the exchange price at which such books shall be furnished. It shall be the duty of the secretary of state to carefully preserve in his office, as the standard of quality and excellence to be maintained in such books during the continuance of the contracts for furnishing the same, the specimen or sample copies of all books which have been the basis of any contract, together with the original bid, or proposal.

1901, c. 1, ss. 7, 9, 10.

3974. Bids and proposals may be rejected. The commission shall have and reserve the right to reject any and all bids, or proposals, if of opinion that any or all should for any reason be rejected. And in case it fail, from among the bids or proposals submitted to select or adopt any book upon any of the branches prescribed by this chapter, may re-advertise for sealed bids, or proposals, under the same terms and conditions as before, and proceed with its investigations in all respects as in the first instance, and as required by the terms and provisions of this chapter. And the commission shall have and reserve the same rights in cases of advertisement for and presentation of bids and proposals for manuscripts and unpublished books hereinafter provided for in this chapter.

1901, c. 1, s. 11.

3975. Manuscripts and unprinted books may be adopted. In the event that the commission rejects the bid for furnishing any book, or in case it fail to adopt any book of the classes required, it may advertise for sealed bids or proposals, from authors or publishers of text-books who have manuscripts of books not yet published, for prices at which they will publish and furnish in book form such manuscripts for use in the public schools in North Carolina, proceeding in like manner as in bids for furnishing books, but the state itself shall not, under any circumstances, enter into

any contract binding it to pay for the publication of any book, but in the contract with the owner of the manuscript it shall be provided that he shall pay the compensation to the publisher for the publication and putting in book form the manuscript, together with the cost and expense of copyrighting the same. All such bids or proposals shall be accompanied with a cash deposit of from five hundred to twenty-five hundred dollars, as the commission may direct, and as heretofore provided in this chapter; and it is expressly provided that any person now doing business, or proposing to do business, in this state shall have the right to bid for the contract to be awarded hereunder in manner as follows: In response to the advertisement such person may submit his written bid to edit, or have edited, published and supplied for use in the public schools in this state any book provided for hereunder. Instead of filing with the bid or proposal a sample or specimen or copy of each book proposed to be furnished, he may exhibit to the commission in manuscript, or printed form, the matter proposed to be incorporated in any book, together with such a description and illustration of the form and style thereof, as will be fully intelligible and satisfactory to the commission; or he may submit a book, the equal of which in every way he proposes to furnish; and he shall accompany his bid or proposal with the cash deposit hereinbefore required. All such books and manuscripts shall be examined and reported upon by the subcommission before being adopted.

1901, c. 1, s. 11.

3976. Commission to deliver sample books to subcommission.

It shall be the duty of the commission to meet at the time and place designated in the advertisement and take out the sample or specimen copies submitted, upon which the bids are based, and refer and submit them to the subcommission, as provided for and directed in this chapter, with instructions to the subcommission to report at a time specified, with the classification and recommendation, as provided in this chapter.

1901, c. 1, s. 8.

3977. Adoption of books. When the report of the subcommission is submitted it shall be the duty of the commission to meet in executive session to open and examine all sealed proposals submitted and received in pursuance of the notice, or advertisement, provided for in this chapter. It shall be the duty of the commission to examine and consider carefully all such bids or proposals, together with the report and recommendation of the subcommission, and determine, in the manner provided in this chapter, what books, upon the branches hereinabove mentioned, shall be selected for adoption, taking into consideration the size, quality as to the subject

matter, material, printing, binding, and the mechanical execution, and price, and the general suitability for the purpose desired and intended. After the selection or adoption shall have been made, the commission shall award the contracts and shall by registered letter notify the publishers or proposers to whom the contracts have been awarded. But the commission shall not, in any case, contract with any person for the use of any book which shall be sold to patrons for use in any public school in the state in excess of the price at which such book is to be furnished by such person under contract to any state, county, or school district in the United States, under like conditions as those prevailing in this state and under this chapter.

1901, c. 1, ss. 8, 9.

3978. Contract, how executed. Upon the awarding of the contracts, it shall be the duty of the attorney general to prepare the same in accordance with the terms and provisions of this chapter. On behalf of the state the contracts shall be executed by the governor and secretary of state and the seal of the state shall be set thereto. All such contracts shall be executed in triplicate, of which one shall be kept by the secretary of the commission, one shall be filed in the office of the secretary of state, and one shall be retained by the other contracting party. All contracts entered into or renewed under the provisions of this chapter shall be for the term of five years.

1901, c. ss. 8, 14.

3979. Contract; stipulations as to prices, and exchange of books. It shall be stipulated in each contract that the contractor has never furnished, and is not now furnishing under contract, any state, county, or school district in the United States, where like conditions prevail as are then prevailing in this state, and under this chapter, the same books as are embraced in the contract at a price below that stipulated in the contract, and the commission is hereby authorized and directed, at any time that it may find that any books have been sold at a lower price under contract to any state, county, or school district, to sue upon the bond of the contractor and recover the difference between the contract and the lower price for which books have been sold. And it shall also be stipulated in the contract that the contractor shall take up school books in use in this state at the date of such contract and receive the same in exchange of new books, allowing a price for such old books not less than fifty per cent. of the contract price of the new books.

1901, c. 1, ss. 9, 10.

3980. Contract, as to liability of state. It shall always be a part of the terms and conditions of every contract made in pursuance of this chapter that the state of North Carolina shall not be liable to any contractor in any manner for any sum whatever, but all such contractors shall receive their pay and compensation solely and exclusively from the proceeds of the sale of books as provided for in this chapter.

1901, c. 1, s. 10.

3981. Contracts may be changed or altered. Nothing in this chapter shall prevent the commission, and any contractor agreeing thereto, from in any manner changing or altering any contract, if four members of the commission shall agree to the change, and think it advisable and for the best interest of the public schools of the state.

1901, c. 1, s. 9.

3982. Books must come up to sample. The books furnished under any contract shall, at all times during the existence of the contract, in all respects be equal to the specimen or sample copies furnished with the bid.

1901, c. 1, s. 9.

3983. Bond of contractor. At the time of the execution of the contract the contractor shall enter into a bond in the sum of not less than ten thousand dollars, payable to the state of North Carolina, the amount of the bond within such limits to be fixed by the commission, conditioned for the faithful, honest, and exact performance of his contract, and shall further provide for the payment of reasonable attorney's fees in case of recovery in any suit upon the same, with three or more good and solvent sureties, actual citizens and residents of this state or any guaranty company authorized to do business in this state, may become the surety on such bond; and it shall be the duty of the attorney general to prepare and approve such bonds. The commission may at any time, by giving thirty days' notice, require additional security or additional bond.

1901, c. 1, ss. 8, 9.

3984. Actions on the bond. In case any contractor shall fail to execute specifically the terms and provisions of his contract, the commission is hereby empowered and directed to bring an action upon the bond of such contractor for the recovery of any and all damages. Such action shall be in the name of the state of North Carolina, and the recovery shall be for the benefit of the public school fund in the state and counties, and when collected, shall be placed in the treasury of the school fund. The bond shall not be exhausted by a single recovery, but may be sued on from time to

time until the full amount thereof shall be recovered. And it is expressly provided that should any party contracting to furnish books, as provided for in this chapter, fail to furnish them, or otherwise break his contract, in addition to the right of the state to sue on the bond hereinabove required, the chairman of the county board of education, or any member thereof, may sue in the name of the state in the courts of the state having jurisdiction, and recover on such bond the full value of the books so failed to be furnished, for the use and benefit of the school fund of the county. In all such cases service of process may be made on any agent of the contractor in the county, or if no agent is in the county, then service may be made on any agent in charge of any depository, and such service shall be, and stand in the place of, service on the defendant contractor.

1901, c. 1, ss. 8, 9, 13.

3985. Deposits by bidders, when returned and when forfeited.

When any person shall have been awarded a contract, and shall have given the bond required, the commission, through its secretary, shall so inform the treasurer of the state, and it shall then be the duty of the treasurer to return to such contractor the cash deposit made by him; and the commission, through its secretary, shall inform the treasurer of the names of the unsuccessful bidders or proposers, and the treasurer shall, upon the receipt of this notice, return to them the amounts deposited by them in cash at the time of the submission of their bids. But should any person fail or refuse to execute a contract and give the bond as required by this chapter, within thirty days after the awarding of the contract to him, and the mailing of the registered letter containing notice thereof, which shall be sufficient evidence that the notice was given and received, the cash deposit shall be deemed and is hereby declared forfeited to the state of North Carolina, and it shall be the duty of the treasurer to place such cash deposit in the treasury of the state to the credit of the school fund.

1901, c. 1, s. 8.

3986. Prices to be printed on books.

It shall be the duty of all contractors to print plainly on the back of each book the contract price, as well as the exchange price at which it is agreed to be furnished, but the books submitted as sample or specimen copies, with the original bid, shall not have the price printed on them before they are submitted to the subcommission. And all books shall be sold to the consumer at the retail contract price, and on each book shall be printed the following: "The price fixed hereon is fixed by state contract, and any deviation therefrom should be reported to your county

superintendent of public instruction, or the state superintendent at Raleigh.”

1901, c. 1, ss. 9, 13, 19.

3987. Agencies for distribution of books to patrons of public schools; penalty. There shall be maintained in each county in the state not less than one and as many more agencies as the commission, upon recommendation of the county board of education, shall order, to be located at such points as the county board may recommend, for the distribution of the books to the patrons; or the contractor shall be permitted to make arrangements with merchants, or others for the handling and distribution of the books; and parties living in the county where no agency has been established, or no arrangement made for distribution, may order the same from one of the contractors, and it shall be the duty of the contractor or contractors to deliver any book so ordered, to the person ordering, to his postoffice address, freight, express, postage, or other charges prepaid, at the retail contract price, if the price of the books so ordered shall be paid in advance. And every contractor shall be required to keep on hand at all times at every established agency in every county an ample supply of books to meet all demands of patrons and purchasers, and upon failure to do so, or upon failure to establish agencies when ordered to do so by the commission as directed herein, the contractor shall be liable to a penalty of five hundred dollars for each and every failure to comply with the provisions of this section, to be sued for by the attorney general in the name of the state in the superior court of the county of Wake, for the benefit of the school fund of the county injured by such failure; and if any contractor, against whom judgment shall be obtained for such penalty, shall fail to pay the same within thirty days of the docketing thereof, he shall forfeit his contract, and the commission shall so declare, and shall thereupon proceed to make a new contract for books with some other contractor. The county superintendent shall notify the contractors annually of the date of opening the public schools at least thirty days before they open.

1901, c. 1, s. 13; 1903, c. 691, s. 1, 2.

3988. Contract proclaimed by governor; notices issued by state superintendent. As soon as the commission shall have entered into a contract for the furnishing or supplying of books for use in public schools, it shall be the duty of the governor to issue his proclamation announcing such fact to the people of the state. And as soon thereafter as practicable the state superintendent shall issue a circular letter to each county superintendent in the state, and to such others as he may desire, which letter shall contain the list of books adopted, the prices, location of agencies, and method

of distribution, and such other information as he may deem necessary.

1901, c. 1, ss. 12, 15,

VI. PUBLIC SCHOOLS.

3989. Uniform system; compulsory attendance. The people have the right to the privilege of education and it is the duty of the state to guard and maintain that right; and religion, morality and knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged. The general assembly shall provide by taxation and otherwise, for a general and uniform system of public schools, wherein tuition shall be free of charge to all children of the state between the ages of six and twenty-one years. And the general assembly is empowered to enact that every child, of sufficient mental and physical ability, shall attend the public schools during the period between the ages of six and eighteen years, for a term of not less than sixteen months, unless educated by other means.

Const., Art. I, s. 27; Art. IX, ss. 1, 2, 15.

3990. Separate schools for races; no discrimination against either race. The children of the white race and the children of the colored race shall be taught in separate public schools; but there shall be no discrimination in favor of or to the prejudice of either race. All white children shall be taught in the public schools provided for the white race, and all colored children shall be taught in the public schools provided for the colored race; but no child with negro blood in his veins, however remote the strain, shall attend a school for the white race; and no such child shall be considered a white child. The descendants of the Croatan indians now living in Robeson and Richmond counties shall have separate schools for their children as hereinafter provided in this chapter.

Const., Art. IX, s. 2; 1901, c. 4, s. 68; 1903, c. 435, s. 22.

3991. What taught. The branches taught in the public schools shall be orthography, defining, reading, writing, drawing, arithmetic, geography, grammar, language lessons, history of North Carolina including the constitution of the state, history of the United States including the constitution of the United States, physiology, hygiene, nature and effect of alcoholic drinks and narcotics, elements of civil government, elements of agriculture, theory and practice of teaching, and such other branches as the state board of education may direct.

1901, c. 4, s. 37.

3992. Oath of office taken by officials. The members of the county board of education, the school committeemen and the county superintendent of public instruction shall, before entering upon the duties of office, take oath for the faithful performance thereof.

1901, c. 4, s. 45.

VII. STATE SUPERINTENDENT.

3993. Shall equip office, print and circulate school law, superintend public schools. The superintendent of public instruction of North Carolina shall have the school laws published in pamphlet form and distributed on or before the first day of May of each year. He shall send to each officer a circular letter, enumerating his duties as prescribed in this chapter. He shall have printed all the forms necessary and proper for the purposes of this chapter, and shall look after the school interest of the state, and report biennially to the governor, at least five days previous to each regular session of the general assembly, which report shall give information and statistics of the public schools and recommend such improvements in the school law as may occur to him. He shall keep his office at the seat of government, and shall sign all requisitions on the auditor for the payment of money out of the state treasury for school purposes. Copies of his acts and decisions, and of all papers kept in his office and authenticated by his signature and official seal, shall be of the same force and validity as the original. He shall be furnished with such room, fuel and stationery as shall be necessary for the efficient discharge of the duties of his office.

3994. Shall construe and enforce law; ascertain best school methods. He shall direct the operations of the system of public schools and enforce the laws and regulations in relation thereto. The county board of education and all other school officers in the several counties shall obey the instructions of the state superintendent and accept his constructions of the school law. It shall be his duty to correspond with leading educators in other states, and to investigate systems of public schools established in other states, and, as far as practicable, render the results of educational efforts and experiences available for the information and aid of the legislature and state board of education.

1901, c. 4, s. 8; 1903, c. 435, s. 1.

3995. Shall counsel county boards; hold institutes, etc. It shall be his duty to acquaint himself with the peculiar educational wants of the several sections of the state, and he shall take all proper means to supply such wants, by counseling with county boards of education and county superintendents, by lectures before

teachers' institutes, and by addresses to public assemblies on subjects relating to public schools and public school work.

1901, c. 4, s. 9.

3996. Duties as to loan fund. He shall go to any county when necessary for the due execution of the law creating a permanent loan fund for the erection of public school-houses. He shall include in his annual reports a full showing of everything done under the provisions of the law creating the permanent loan fund for the erection of public school buildings.

1903, c. 751, ss. 11, 12.

VIII. FUNDS FROM THE STATE.

3997. Special permanent fund. The proceeds of all lands that have been or may hereafter be granted by the United States to this state, and not otherwise appropriated by this state or the United States, also all moneys, stocks, bonds and any other property now belonging to any state fund, for the purposes of education, also the net proceeds of sales of swamp lands belonging to the state, and all other grants, gifts or devises that have been made or hereafter may be made to this state, and not otherwise appropriated by this state or by the terms of the grant, gift or devise, shall be paid into the state treasury, and, together with so much of the ordinary revenue of the state as may be set apart for that purpose, shall be faithfully appropriated for establishing and maintaining a system of free public schools, as established in pursuance of the constitution and for no other purpose whatsoever. And all funds of the state heretofore derived from the sources enumerated in section four, article nine of the state constitution, and all funds that may be hereafter so derived, together with any interest that may accrue thereon, shall be a fund separate and distinct from the other funds of the state, to be known as the state literary fund.

Const., Art. IX, s. 4; 1901, c. 4, s. 4; 1903, c. 567, s. 1.

3998. Apportionment of income of school fund. The state board of education shall, on the first Monday in August of each and every year, apportion among the several counties of the state all the school funds which may be then in the treasury of the board, and order a warrant for the full apportionment to each county, which apportionment shall be made on the basis of the school population, but no part of the permanent school fund shall be apportioned or distributed, but only the income therefrom. The state auditor shall keep a separate and distinct account of the public school funds, and of the income and interest thereof, and also of

such moneys as may be raised by state, county and capitation tax, or otherwise, for school purposes.

1901, c. 4, s. 1.

3999. Apportionment, how paid. Upon the receipt of the requisition of the treasurer of any county, duly approved by the chairman and secretary of the county board of education for the school fund which may have been apportioned to such county, the state board of education shall issue its warrant on the state auditor for the sum due such county, whereupon the auditor shall draw his warrant on the treasurer of the state board of education in favor of such county treasurer for the amount set forth in the warrant of the state board.

1901 c. 4, s. 2.

4000. Warrants, how drawn and indorsed. The state treasurer shall receive and hold as a special deposit all school funds paid into the treasury, and pay them out only on the warrant of the auditor, issued on the order of the state board of education in favor of a county treasurer, duly endorsed by the county treasurer in whose favor it is drawn, and it shall be the only valid voucher in the hands of the state treasurer for the disbursement of school funds.

1901, c. 4, s. 3.

4001. Annual appropriation for distribution. One hundred thousand dollars is hereby appropriated, annually, out of the state treasury for the benefit of the public schools, to be distributed to the respective counties of the state, per capita as to school population, on the first Monday in January of each year, using the school census of the previous scholastic year as a basis of apportionment.

1901, c. 543, s. 1.

4002. Warrants, how drawn. The superintendent of public instruction shall issue warrants upon the state auditor for the amount due each county under the next preceding section, such warrants to be drawn in favor of the county treasurer of each county to be credited to the general public school fund of the county.

1901, c. 543, s. 2.

4003. Annual appropriation to equalize schools. One hundred thousand dollars, or so much thereof as may be necessary, is hereby appropriated annually out of the state treasury for the purpose of bringing up to the constitutional requirement for a four months' public school term in each school district in the state, those public schools whose terms, after the distribution and application of all other school funds, do not comply with such requirement, to be distributed and applied in the manner hereinafter set forth. The

subsequent provisions of this subchapter shall apply only to the distribution of the hundred thousand dollars appropriated under this section, and in the event that such sum shall be insufficient for the purpose specified, then it shall be apportioned by the state board of education pro rata, or in such manner as that board may deem fair and equitable among the counties applying for aid hereunder.

1901, c. 543, s. 3; 1903, c. 751, s. 3.

4004. Reports required to obtain part of fund to equalize schools. At the January meeting of each year the county board of education of each county shall report to the state superintendent of public instruction the school districts in such county which can not have a four months' term, designating each by number and township, with a statement of funds available for school purposes for each of such districts, funds obtained by special local taxes and balances brought over from preceding fiscal year not to be included in such statement, the census and monthly running expenses thereof, the number of pupils enrolled, the average daily attendance, the salary paid to teachers in such district and such additional facts in regard thereto as may be required by the state superintendent. The county board of education shall likewise report the school census of the entire county, the total school funds available, the total apportionment made at such January meeting and the total amount left unapportioned.

1903, c. 751, s. 4.

4005. State board to fix amount to be paid each school. The state superintendent shall forthwith lay these facts before the state board of education, which shall thereupon, after full investigation, fix and determine the amount which must necessarily be apportioned to each district to enable it to have a four months' term; but in fixing such amount no consideration shall be had of any funds available by reason of special local taxes, and any rural district having funds raised by such local tax shall be entitled to the same appropriation under this title as if there had been no such funds.

1903, c. 751, s. 5.

4006. Statement of apportionment filed with auditor; warrants issued. When such apportionment shall have been so made, an itemized statement thereof shall be filed with the auditor, who shall thereafter, upon the warrant of the state superintendent of public instruction, issue his warrant upon the state treasurer, payable to the county treasurer of each of the respective counties in the sum shown by such itemized statement to have been appropriated to such county. The amount designated as having been apportioned

to each district shall be available for that district only and only for the specific purpose of providing a four months' school term.

1903, c. 751, s. 6.

4007. Schools of less than sixty-five excluded, when. No school with a school census of less than sixty-five shall receive any benefit under this subchapter unless the formation and continuance of such district shall have been for good and sufficient reasons, to-wit, sparsity of population or peculiar geographical conditions, such as intervening streams, swamps or mountains, such reasons to be set forth in an affidavit by the chairman of the county board and the county superintendent, and to be approved by the state superintendent of public instruction.

1903, c. 751, s. 7.

4008. What necessary to procure fund for equalizing schools. No appropriation shall be made to any county unless the county superintendent, the chairman of the board of county commissioners and the clerk of the superior court shall make affidavit to the effect that all fines, penalties, forfeitures and other moneys properly belonging to the school fund have been so applied, and that the constitutional limit of taxation has been reached in such county.

1903, c. 751, s. 8.

4009. Teachers' salaries as basis for apportionment. In calculating the necessary monthly expenses of districts applying for aid under this subchapter, not more than the average monthly salary paid white teachers in the state for the preceding year shall be allowed each white teacher, and not more than the average monthly salary paid colored teachers in the state for the preceding year shall be allowed each colored teacher, and no second-grade teacher of either race shall be allowed more than the salary paid second-grade teachers of that race in that county. And to any school having more than one teacher only such average salary shall be allowed for every thirty-five pupils enrolled therein.

1903, c. 751, s. 9.

4010. Excessive appropriations for school-houses exclude from benefits of this subchapter. No appropriation shall be made to any county wherein has been expended or set aside during the fiscal year for the purpose of building school-houses a percentage of the total school fund of such county greater than the following: In counties with a total school fund of five thousand dollars or less, not to exceed twenty per centum thereof; in counties with a total school fund of over five thousand dollars and not more than ten thousand dollars, not to exceed sixteen per centum thereof; in counties with a total school fund of over ten thousand dollars and not more than

twenty-five thousand dollars, not to exceed ten per centum thereof; in counties with a total school fund of over twenty-five thousand dollars, not to exceed seven and one-half per centum thereof. Nor shall any appropriation be made under this subchapter to any county if it appear that the requirements of the school law in regard to the apportionment of funds to the various districts have not been complied with in all respects.

1903, c. 751, s. 10.

IX. FUNDS FROM THE COUNTY.

4011. County educational fund for free public schools. All moneys, stocks, bonds and other property belonging to a county school fund, also the net proceeds from sales of estrays, also the clear proceeds of all penalties and forfeitures, and of all fines collected in the several counties for any breach of the penal or military laws of the state, and all moneys which shall be paid by persons as equivalent for exemption from military duties; also the net proceeds of any tax imposed on licenses to retailers of wines, cordials, or spirituous liquors and to auctioneers, shall belong to and remain in the several counties, and shall be faithfully appropriated for establishing and maintaining free public schools in the several counties as established in pursuance of the constitution. The amount collected in each county shall be reported annually to the state superintendent of public instruction.

Const., Art. IX, s. 5; 1901, c. 4, s. 5.

4012. County officers file list of fines and penalties with county board of education. The clerks of all state and municipal courts and the clerks or other officials having in custody the records of any city or town in the state shall furnish to the county board of education of their respective counties, on the first Monday of July and January of each year, a detailed statement of fines, forfeitures and penalties which go to the school fund that have been imposed, or which have accrued.

1901, c. 4, s. 62.

4013. Tax lists to have separate columns for school taxes. The auditor shall include on the form which he furnishes to the board of county commissioners and on which the tax lists are to be made out, separate columns for school poll tax and school property tax. In one of these columns shall be written the total poll tax levied by the state and by the county authorities for schools, and due by the taxpayer. In the other column shall be written the total property tax levied by the state and by the county authorities, and due by the taxpayer.

1901, c. 4, s. 60.

4014. Register of deeds to furnish abstracts of tax lists to county board. The register of deeds shall furnish to the county board of education, as soon as the tax lists are made out, an abstract of such lists, showing in separate columns the total amount of poll tax on such lists, and also the total amount of property tax thereon; and shall furnish such other information from his office as the county board of education may require.

1901, c. 4, s. 61.

4015. Sheriff's liability, civil and criminal, for failure to settle school tax. The sheriff of each county shall pay annually, in money, to the treasurer of the county school fund, on or before the thirty-first day of December of each year, the whole amount for school purposes collected by both state and county, less his lawful commission for collecting the same, and such sum as may be allowed on account of insolvents for the current year; and on failing to do so shall be liable to an action on his official bond for his default in such sum as will cover such default, such action to be brought to the next ensuing term of the superior court in the name of the state upon the relation of the board of county commissioners.

Code, s. 723; 1901, c. 4, s. 54.

4016. Special tax for support of public schools. If the tax levied for the state for the support of the public schools shall be insufficient to maintain one or more schools in each school district for the period of four months, then the board of commissioners of each county shall levy annually a special tax to supply the deficiency for the support and maintenance of such schools for the period of four months or more. The tax shall be collected by the sheriff in money, and he shall be subject to the same liabilities for the collection of and accounting for such tax as for other taxes. The tax shall be levied on all property, credits and polls of the county; and in the assessment of the amount on each the commissioners shall observe the constitutional equation of taxation; and the funds thus raised shall be expended in the county in which collected, in such manner as the county board of education may determine for maintaining the public schools for four months at least in each year. But the county board of education shall not be required to expend upon a district containing less than sixty-five pupils the same sum it may give to larger districts, notwithstanding an inequality of length of school terms may be the result. The county board of education, on or before the annual meeting of the commissioners for levying county taxes, shall make an estimate of the amount of money necessary to maintain the schools for four months and submit it to the board of county commissioners.

1901, c. 4, s. 6.

4017. Special tax may be voted in cities and towns. In every incorporated city or town in which there is not now levied a special tax for schools, upon a petition signed by one-fourth of the freeholders therein, the board of aldermen or town commissioners of such city or town shall, at the date of the municipal or general election next ensuing upon the presentation of such petition, order an election to be held to ascertain the will of the people whether there shall be levied in such city or town a special annual tax, of not more than thirty cents on the one hundred dollars valuation of property and ninety cents on the poll, to supplement the public school fund in such city or town. Such election shall be held in the different election precincts or wards under the law governing municipal or general elections in such cities or towns. At such election those who are in favor of the levy and collection of the tax shall vote a ticket on which shall be printed or written the words "For Special Tax," and those who are opposed shall vote a ticket on which shall be printed or written the words "Against Special Tax." In case a majority of the qualified voters at such election is in favor of the tax the same shall be annually levied and collected in such town or city in the manner prescribed for the levy and collection of other city or town taxes. All moneys levied under the provisions of this section shall, upon collection, be placed to the credit of a city or town school committee, composed of not less than five nor more than seven members, to be appointed by the board of aldermen or town commissioners for such city or town, and shall be, by such committee, expended exclusively upon the public schools in such city or town; and there shall be but one school district in such city or town in which there may be established one or more schools for each race, and such school committee shall apportion the money among the schools in such manner as in its judgment will equalize school facilities.

1901, c. 4, s. 71.

4018. Special tax may be voted in special school districts. Special school tax districts may be formed by the county board of education in any county without regard to township lines under the following conditions: Upon a petition of one-fourth of the freeholders within the proposed special school district, endorsed by the county board of education, the board of county commissioners, after thirty days' notice at the courthouse door and three public places in the proposed district, shall hold an election to ascertain the will of the people within the proposed special school district whether there shall be levied in such district a special annual tax of not more than thirty cents on the one hundred dollars valuation of property and ninety cents on the poll to supplement the public school fund, which may be apportioned to such district by the county board of

education, in case such special tax is voted. The board of county commissioners shall appoint a registrar and order a new registration for such district and the election shall be held in the district under the law governing general elections as near as may be. At such election those who are in favor of the levy and collection of the tax shall vote a ticket on which shall be printed or written the words, "For Special Tax," and those who are opposed shall vote a ticket on which shall be printed or written the words, "Against Special Tax." In case a majority of the qualified voters at the election is in favor of the tax, the same shall be annually levied and collected in the manner prescribed for the levy and collection of other taxes. All money levied under the provisions of this section shall upon collection be placed to the credit of the school committee in such district, which committee shall be appointed by the county board of education; and such school committee shall apportion the money among the schools in such district in such manner as in its judgment shall equalize school facilities.

1901, c. 4, s. 72; 1903, c. 435, s. 24.

4019. Apportionment of school funds; reservation of contingent fund. The county board of education shall, on the first Monday in January and the first Monday in July of each year, apportion the school fund of the county to the various townships per capita; but it shall, before apportioning the school fund to the various townships, reserve, as a contingent fund, an amount sufficient to pay the salary of the county superintendent and per diem and expenses of the county board of education; and shall set aside one-sixth, if necessary, of the total school fund to be used in securing a four months' school term in every school in the county; and may further reserve, as a fund for building and repairing school-houses and for equipment, in counties with a total school fund of five thousand dollars or less, not more than twenty per centum thereof; in counties with a total school fund of over five thousand dollars and not more than ten thousand dollars, not more than sixteen per centum thereof; in counties with a total school fund of over ten thousand dollars and not more than twenty-five thousand dollars, not more than ten per centum thereof; in counties with a total school fund of over twenty-five thousand dollars, not more than seven and a half per centum thereof; to be used as directed in section four thousand twenty-seven. It shall be the duty of the county board of education to distribute and apportion the school money of each township so as to give to each school in the township for each race the same length of school term as nearly as may be each year. In making such apportionment the board shall have proper regard for the grade of work to be done and the qualifications of the teachers required in each school for each race. As soon as the apportionments are

made it shall be the duty of the board to notify the school committeemen and the treasurer of the county school fund, of the amount apportioned to each school, designating each school by number, and stating whether for white, colored or indian, and naming the township and county. Funds unused by any district during any year shall, if still unused at the January meeting subsequent to the close of the school year, be returned to the general school fund for reapportionment, unless such district shall have been prevented from using such funds during that year by providential or other unavoidable causes.

1901, c. 4, s. 24; 1903, c. 435, s. 9.

4020. Apportionment, basis of. The semi-annual apportionment of public school money shall be based upon the amounts actually received by the county treasurer from all sources and reported by him to the county board of education as required by this chapter.

1901, c. 4, s. 25.

4021. Fiscal school year. The fiscal school year shall begin on the first day of July and close on the thirtieth day of June next succeeding.

1901, c. 4, s. 67.

X. COUNTY BOARD OF EDUCATION.

4022. Election of; vacancies in, how filled. The general assembly shall biennially appoint three men in each county, of good business qualifications and known to be in favor of public education, who shall constitute the county board of education. The term of office of the members of the county board of education so appointed shall begin on the first Monday in July next succeeding their appointment, and shall continue for two years and until their successors are duly appointed and qualified. In case of a vacancy in the county board of education by death, resignation or otherwise, such vacancy shall be filled by the remaining members of such county board; but if such vacancy should remain unfilled for thirty days after it occurs, it shall be filled by the state board of education. Upon failure of the general assembly to appoint the three members of the county board of education for any county as herein provided, or any one or more of such members, such failure shall constitute a vacancy which shall be filled by the state board of education.

1901, c. 4, s. 12; 1903, c. 269, c. 435, s. 3.

4023. Qualification of members; failure to qualify; vacancy. Those persons who shall be appointed members of the county board of education by the general assembly must qualify by taking the oath

of office on or before the first Monday in July next succeeding their appointment. A failure to qualify within that time shall constitute a vacancy, which shall be filled by the state board of education. Those persons who shall be elected or appointed to fill a vacancy must qualify within thirty days after notification thereof. A failure to qualify within that time shall constitute a vacancy to be filled by the board which made such election or appointment.

4024. Incorporated; powers and duties of. The county board of education shall be a body corporate by the name and style of The County Board of Education of County, and by that name shall be capable of purchasing and holding real and personal estate, of building and repairing school-houses, of selling and transferring the same for school purposes, and of prosecuting and defending suits for or against the corporation. It shall have power and authority and it shall be its duty, to institute and prosecute any and all actions, suits or proceedings against any and all officers, persons or corporations, or their surties for the recovering, preservation and application of all moneys or property which may be due to or should be applied to the support and maintenance of the schools, except in case of a breach of his bond by the treasurer of the county school fund, in which case action shall be brought by the county commissioners as is hereinafter provided.

1901, c. 4, s. 13; 1903, c. 435, s. 4.

4025. Rules and regulations for schools, teachers and pupils. The county board of education shall have power and authority to fix and determine the methods of conducting the public schools in their respective counties so as to furnish the most advantageous methods of education available to the children attending the public schools in the several counties of the state; and such board and the county superintendent of public instruction shall have full power to make all just and needful rules and regulations governing the conduct of teachers and pupils as to attendance on the schools, discipline, tardiness and the general government of the schools.

1903, c. 435, s. 4.

4026. Time of opening and closing schools. The time of opening and closing the public schools in the several public school districts of the state shall be fixed and determined by the county boards of education in their respective counties. The board may fix different dates for opening the schools in different townships, but all the schools of each township must open on the same date as nearly as practicable.

1903, c. 435, s. 4.

4027. School-houses, building and approval of; contracts for. The building of all new school-houses shall be under the control and direction of and by contract with the county board of education. The board shall pay not exceeding one-half of the cost of the same out of the fund set aside for building under section four thousand and nineteen, and the school district in which any school-house is erected shall pay the other part, and upon failure of such district to provide its part by private subscription or otherwise the board is directed to take it out of the apportionment to that district. But the board shall not be authorized to invest any money in any new house that is not built in accordance with plans approved by the state superintendent of public instruction. All contracts for buildings shall be in writing and all buildings shall be inspected, received and approved by the county superintendent of public instruction before full payment is made therefor.

1903, c. 435, s. 4.

4028. Power of, to execute school law. In addition to all other duties and powers imposed and conferred upon it by law, the county board of education shall have general control and supervision of all matters pertaining to the public schools in their respective counties and are given the powers to execute, and is charged with the due execution of, the school laws in their respective counties; and all powers and duties conferred and imposed by this chapter and other laws of the state respecting public schools, which are not expressly conferred and imposed upon some other official, are conferred and imposed upon the county boards of education; and an appeal shall lie from all other county school officers to such board.

1901, c. 4, s. 14.

4029. Removal of county superintendent, members of county board, and school committeemen. In case the state superintendent shall have sufficient evidence at any time that any county superintendent of public instruction or any member of the county board of education is not capable of discharging, or is not discharging, the duties of his office as required by this chapter, or is guilty of immoral or disreputable conduct, he shall report the matter to the county board of education, which shall hear evidence in the case, and if, after careful investigation, it shall find sufficient cause for his removal, it shall declare the office vacant at once and proceed to elect his successor. Either party may appeal from the decision of the county board of education to the state board of education, which shall have full power to investigate and review the decision of the county board of education. This section shall not deprive any county superintendent of the right to try his title to his office

in the courts of the state. In case the county superintendent shall have sufficient evidence at any time that any member of any school committee is not capable of discharging, or is not discharging, the duties of his office, he shall bring the matter to the attention of the county board of education, which shall thoroughly investigate the charges and shall remove such committeeman and appoint a successor if sufficient evidence shall be produced to warrant his removal and the best interest of the schools demand it.

1901, c. 4, ss. 10, 42.

4030. May hold investigations. The county board of education shall have power to investigate and pass upon the moral character of any teacher in the public schools of the county, and to dismiss such teacher, if found of bad moral character; also to investigate and pass upon the moral character of any applicant for a teacher's certificate or for employment as teacher in any public school in the county. Such investigation shall be made after written notice, of not less than ten days, to the person whose character is to be investigated. The board shall have power to issue subpoenas for the attendance of witnesses. Subpoenas may be issued in any and all matters which may lawfully come within the powers of the board, and which, in the discretion of the board, require investigation. And it shall be the duty of the sheriffs, coroners and constables to serve such subpoenas upon payment of their lawful fees. Appeals provided for in this chapter shall be regulated by rules to be adopted by the board. The superior courts of the state may review any action of the county board of education affecting anyone's character or right to teach.

1901, c. 4, s. 15.

4031. Power to punish for contempt. The county board of education of each county shall have power to punish for contempt, for any disorderly conduct or disturbance tending to interrupt it in the transaction of official business.

1901, c. 4, s. 28.

4032. School districts, how formed. The county board of education shall divide the townships into convenient school districts as compact in form as practicable. It shall consult the convenience and necessities of each race in setting the boundaries of the school district for each race, and shall establish no new school in any township within less than three miles by the nearest traveled route of some school already established in said township; nor shall it create any school district with less than sixty-five children of school age, unless prevented by geographical reasons or sparsely settled neighborhoods. Nothing in this chapter shall prevent the board,

whenever it shall deem it necessary for the good of the public schools, from forming a school district out of portions of two or more contiguous townships. School districts may be formed out of portions of contiguous counties by agreement and consent of the county boards of education of the two counties; and, in case of the formation of such districts, the per capita part of the public school money due the children residing in one county shall be apportioned by the county board of education of that county and paid to the treasurer of the other county in which the school-house is located, to be placed to the credit of the school district so formed.

1901, c. 4, s. 29; 1903, c. 435, s. 12.

4033. May accept donations; may sell school property. The county board of education may receive any gift, grant, donation or devise made for the use of any school within its jurisdiction. When, in the opinion of the board, any school-house, school-house site, or other public school property has become unnecessary for public purposes, it may sell the same at public auction after advertisement of twenty days at three public places in the county, or at private sale. The deed for the property thus sold shall be executed by the chairman and secretary of the board, and the proceeds of the sale shall be paid to the treasurer of the county school fund.

1901, c. 4, ss. 30, 36.

4034. School sites may be acquired by gift, purchase or condemnation. The county board of education may receive suitable sites for school-houses by donation or purchase. In case of purchase it shall issue an order on its treasurer for the purchase-money, and upon payment of the order the title to the site shall vest in the corporation in fee-simple. Whenever the board is unable to obtain a suitable site for a school by gift or purchase, it shall report to the county superintendent of public instruction, who shall, upon five days' notice to the owner of the land, apply to the clerk of the superior court of the county in which the land is situated, for the appointment of three appraisers, who shall lay off, by metes and bounds, not more than two acres, and assess the value thereof. They shall make a written report of their proceedings, to be signed by them, or by a majority of them, to the clerk within five days from their appointment, who shall enter the same upon the records of the court. The appraisers and officers shall serve without compensation. If the report is confirmed by the clerk, the chairman and the secretary of the board shall issue an order on the treasurer of the county school fund in favor of the owner of the land thus laid off, and upon the payment or offer of payment of this order the title to such land shall vest in fee-simple in the corporation. Improved land shall not be condemned under this section unless it be essential

to secure a proper location. Any person aggrieved by the action of the appraisers may appeal to the superior court in term, upon giving bond to secure the board against such costs as may be incurred on account of the appeal not being prosecuted with effect.

1901, c. 4, s. 31; 1903, c. 435, s. 13.

4035. Deeds to be filed with clerk; secretary to keep index. All deeds to the county board of education shall be registered and delivered to the clerk of the superior court for safe-keeping, and the secretary of the county board of education shall keep an index, by townships and school districts, of all such deeds in a book for that purpose.

1901, c. 4, s. 32; 1903, c. 435, s. 14.

4036. Meetings of; duties at. The county board of education shall meet on the first Monday in January, April, July and October, and may, if necessary, continue in session two days, and it may have called meetings, of one day each, as often as once a month if the school business of the county require it. It shall at the meeting in January, April, July and October, examine the books and vouchers, and audit the accounts of treasurer of the county school fund. The boards of education of the several counties shall publish annually, on the thirty-first day of December, a financial statement in like manner as now required by law of boards of county commissioners.

1891, c. 460; 1901, c. 4, s. 27; 1903, c. 435, s. 26.

4037. Superintendent and treasurer to meet with, in July to settle all business of fiscal year. On the first Monday in July, the county board of education, county superintendent of public instruction and treasurer shall meet at the office of the board and settle all the business of the preceding fiscal year. The board shall on that day examine the reports of treasurer and county superintendent, and, if found correct, shall direct them to be forwarded to the state superintendent.

1901, c. 4, s. 59; 1903, c. 435, s. 20.

XI. COUNTY SUPERINTENDENT.

4038. Election, qualification and term of office; vacancy. The county board of education on the first Monday in July, one thousand nine hundred and five and biennially thereafter, shall elect a county superintendent of public instruction, who shall be, at the time of his election, a practical teacher, or who shall have had at least two years' experience in teaching school, and who also shall be a man of liberal education and shall otherwise be qualified to

discharge the duties of his office as required by law, due regard being given to experience in teaching. Such superintendent must be of good moral character and shall hold his office for a term of two years from the date of his election and until his successor is elected and qualified. Any person who has filled the office of county superintendent for four years next preceding the eleventh day of March, one thousand nine hundred and one, shall be eligible to such office in Bertie and Bladen and Columbus counties, if the election of such person meets the approval of the state board of education. In case of vacancy by death, resignation, or otherwise, in the office of county superintendent such vacancy shall be filled by the county board of education.

1901, c. 4, s. 16; 1903, c. 435, s. 5.

4039. Report of election of, to state superintendent. Immediately after the election of the county superintendent of public instruction the chairman of the county board of education shall report to the state superintendent of public instruction the name, address, experience and qualifications of the person elected; and the person elected shall report to the state superintendent as soon as he shall have qualified, the date of such qualification.

1901, c. 4, s. 16; 1903, c. 435, s. 5.

4040. Districts in cities and towns may jointly employ. By and with the consent of the county board of education the school committees of two or more contiguous districts in any city or town may, by a majority vote of the committee in each district, employ a practical teacher, who shall be known as the superintendent of the public schools of such districts, and he shall perform all the duties of the county superintendent of public instruction as to such districts, and shall make to the county superintendent all reports that may be necessary to enable him to make his reports to the state superintendent.

1889, c. 199, s. 47; 1901, c. 4, s. 74.

4041. Not to teach school; to reside in the county. Every county superintendent shall reside in the county of which he is superintendent. It shall not be lawful for any county superintendent to teach a school while the public schools of his county are in session; but the state board of education may, for good and sufficient reason, permit a county superintendent to so teach.

1901, c. 4, s. 44.

4042. Ex officio secretary to the board; records to be kept. The county superintendent of public instruction shall be ex officio the secretary of the county board of education. He shall record all

proceedings of the board, issue all notices and orders that may be made by the board pertaining to the public schools, school-houses, sites, or districts (which notices or orders it shall be the duty of the secretary to serve by mail or by personal delivery without cost), and record all school statistics, look after all forfeitures, fines and penalties, see that the same are placed to the credit of the school fund and report the same to the board. The board shall provide the county superintendent with an office at the county seat and with a suitable book in which to keep the records required by this section. The records of the board and the county superintendent shall be kept in the office provided for that purpose by the board.

1901, c. 4, s. 36.

4043. To hold teachers' meetings. The county superintendent shall each year hold not less than one teachers' meeting in each township, which the teachers shall be required to attend. If necessary, one school day must be set apart for this purpose.

1901, c. 4, s. 38; 1903, c. 435, s. 17.

4044. Must advise and may dismiss teachers; must attend state association of superintendents. It shall be the duty of the county superintendent to advise with the teachers as to the best methods of instruction and school government, and to that end he shall keep himself thoroughly informed as to the progress of education in other counties, cities and states. He shall have authority to correct abuses, and to this end he may, with the concurrence of a majority of the school committee, suspend any teacher who may be guilty of any immoral or disreputable conduct, or may prove himself incompetent to discharge efficiently the duties of a public school teacher, or who may be persistently neglectful of such duties. The county superintendent shall be required to visit the public schools of his county while in session under the direction of the county board of education, and shall inform himself of the condition and needs of the various schools within his jurisdiction. Unless providentially hindered he shall attend continuously during its session the annual meeting of the state association of county superintendents, and the county board of his county shall pay out of the county school fund his traveling expenses and allow him his per diem while attending such meeting; but county superintendents employed on salary shall not receive any per diem while in attendance on such meeting.

1901, c. 4, s. 39; 1903, c. 435, s. 18.

4045. Must distribute blanks and books, and advise committees. It shall be the duty of the county superintendent to distribute to the various school committees of his county all such blanks as

may be furnished by the state superintendent of public instruction for reports of school statistics of the several districts; also, blanks for teachers' reports and for orders on the treasurer of the county school fund for teachers' salaries. He shall also distribute to the school committees school registers for their respective districts and necessary record books; he shall advise with the committee as to the best methods of gathering the school statistics contemplated by such blanks, and, by all proper means, shall seek to have such statistics fully and properly reported.

1901, c. 4, s. 40.

4046. Must make reports to state superintendent. It shall be the duty of each county superintendent on or before the first Monday in July of each year, to report to the state superintendent of public instruction an abstract statement of the number, grade, race and sex of the teachers examined and approved by him during the year; also, the number of public schools taught in the county during the year for each race; the number of children of school age in each school district; the number enrolled in each district; the average daily attendance in each district by race and sex and the number of all persons in the county between the ages of twelve and twenty-one who can not read and write. He shall also report by race and sex the number of pupils enrolled in all the schools, their average attendance, the average length of terms of the schools, and the average salary for the teachers of each race; the number of school districts for each race, and any new school districts laid out during the year shall be specified in his report. He shall also report the number of public school-houses and the value of the public school property for each race; the number of teachers' institutes held; the number of teachers attending such institutes, together with such suggestions as may occur to him promotive of the school interest of the county. He shall record in his book an accurate copy of such report. If any county superintendent fail or refuse to perform any of the duties required of him by this chapter he shall be subject to removal from his office by the county board of education upon the complaint of the state superintendent of public instruction.

1901, c. 4, s. 41.

4047. To report as to deaf, dumb and blind children. It shall be the duty of the county superintendent to require of the school committees, in enumerating the number of school children, to make a statement in the report of the number of deaf, dumb and blind between the ages of six and twenty-one years, designating the race and sex, and the address of the parent or guardian of such children; and the county superintendents are hereby required to furnish such information to the principals of the deaf, dumb and blind institu-

tions, and the superintendent of public instruction, in preparing blanks for reports required to be made to him, shall include questions, the answers to which will furnish the information required by this section.

1901, c. 4, s. 43.

XII. SCHOOL COMMITTEE.

4048. Qualifications and election of; care taken of school-houses. The county board of education of each county shall on the first Monday in July, one thousand nine hundred and five, and biennially thereafter, appoint in each of the townships of the county three intelligent men of good business qualifications, who are known to be in favor of public education, who shall serve for two years from the date of their appointment as school committeemen in their respective townships and until their successors are elected and qualified. If a vacancy shall occur at any time by death, resignation or otherwise it shall be the duty of the county board of education to fill such vacancy. Such board shall have the power to pay out of the reserve school fund to each member of the township committee thus appointed one dollar per day for not more than four days per annum. Any township committee may appoint one man in each school district in the township to look after the school-house and property and advise with the committee. The county board of education in each county may, if it deem best, biennially, on the first Monday in July, instead of electing township committeemen, elect for each school of the several townships three school committeemen of intelligence and good business qualifications, who are known to be in favor of public education, who shall serve for two years from date of their appointment as committeemen and until their successors are elected and qualified. If a vacancy should occur at any time by death, resignation, or otherwise, it shall be the duty of the county board of education to fill such vacancy. And in case such school committeemen shall be elected as above all the powers and duties conferred under this chapter on the township committeemen shall vest in such committeemen of the several schools of the township, who shall serve without compensation.

1901, c. 4, s. 17; 1903, c. 435, s. 6.

4049. To elect chairman and secretary; appeals from. The school committee, as soon as practicable after their election and qualification, not to exceed twenty days, shall meet and elect from their number a chairman and secretary, and shall keep a record of their proceedings in a book to be kept for that purpose. The name and address of the chairman and secretary shall be reported to the county superintendent of public instruction and recorded by him.

1901, c. 4, s. 18.

4050. Powers and duties as to school property. The school committee shall be intrusted with the care and custody of all school-houses, school-house sites, grounds, books, apparatus, or other public school property in the township, with full power to control the same as they may deem best for the interest of the public schools and the cause of education.

1901, c. 4, s. 19.

4051. Census to be taken; reports; deaf, dumb, blind and illiterates to be reported. The school committee is required to furnish to the county superintendent a census report of all the pupils of school age in their township or district by name, age, sex and race, also the names of their parents or guardians. The blanks upon which such reports are to be made shall be furnished to the various school committees by the county superintendent on the first Monday in August in each year, which report shall be duly sworn to by each one of the committee and returned to the county superintendent on or before the first Monday in September of each year, and any committee failing to comply with the provisions of this section without just cause shall be subject to removal. The school committee shall be allowed a sum not exceeding two cents per name for all names reported between the ages of six and twenty-one. The committee shall also report to the county superintendent, who shall in turn report to the county board of education, the number of public school-houses and the value of all public school property for each race separately and furnish to the teacher at the opening of the school a complete copy of the census furnished to the county superintendent, which shall be recorded by the teacher in a register containing the name and age of each pupil of school age in that district. They shall also report by race and sex the number of all persons between the ages of twelve and twenty-one who can not read and write; and the number of deaf, dumb and blind between the ages of six and twenty-one years, designating the race and sex, and the address of the parents or guardians of such children.

1901, c. 4, ss. 20, 43; 1901, c. 3, s. 1; 1903, c. 435, s. 7.

4052. To keep a record of receipts and expenditures; purchase supplies. The school committee for each township or district shall keep a book in which shall be recorded an itemized statement of all moneys apportioned to, received and expended by them for each school and a copy of all contracts made by them with teachers. The committee shall have authority to purchase the supplies necessary for conducting the schools and for repairs to an amount not to exceed in the aggregate the sum of twenty-five dollars in any one year for each school.

1901, c. 4, ss. 21, 35.

4053. Must not overdraw. No committee shall give an order unless the money to pay it is actually to the credit of the district, and no part of the school fund for one year shall be used to pay school claims for any previous year.

1901, c. 4, s. 34; 1903, c. 435, s. 16.

4054. Private schools, committee may contract with; effect.

In any school district where there may be a private school regularly conducted for at least six months in the year, unless such private school is a sectarian or denominational school, the school committee may contract with the teacher of such private school to give instruction to all pupils between the ages of six and twenty-one years in the branches of learning taught in the public schools, as prescribed in this chapter, without charge and free of tuition; and such school committee may pay such teacher for such service out of the public school fund apportioned to the district, and the agreement as to such pay shall be arranged between the committee and teacher. Every teacher of the public school branches in such school shall obtain a first-grade certificate before beginning his or her work, and shall from time to time make such reports as are required of other teachers under this chapter. The county superintendents of public instruction shall have the same authority in respect to the employment and dismissal of teachers under this section, and in every other respect, as is conferred in other sections of this chapter. And all contracts made under this section shall designate the minimum length of the public school term, which shall not be less than the average length of the public school term of the county of the preceding year. The amount paid such private school for each pupil in the public school branches, based on the average daily attendance, shall not exceed the regular tuition rates in such school for such branches of study. Every school to which aid shall be given under this chapter shall be a public school to which all children living within the district between the ages of six and twenty-one years shall be admitted free of charge for tuition. The committee may admit pay students over twenty-one years of age.

1901, c. 4, ss. 33, 65; 1903, c. 435, s. 15.

XIII. TREASURER OF SCHOOL FUND.

4055. County treasurer made treasurer of school fund; bond.

The county treasurer of each county shall receive and disburse all public school funds, and shall keep the same separate and distinct from all other funds, but before entering upon the duties of his office he shall execute a justified bond, with security, in an amount to be fixed by the board of county commissioners, not less than the moneys

received by him or by his predecessor during the previous year, conditioned for the faithful performance of his duties as treasurer of the county school fund, and for the payment over to his successor in office of any balance of school moneys that may be in his hands unexpended. The bond of the treasurer of the county school fund shall be a separate bond, not including liabilities for other funds, and shall be approved by the board of county commissioners, and that board may, from time to time, if necessary, require him to strengthen his bond.

1901, c. 4, ss. 46, 47.

4056. Bond, actions on. The board of county commissioners shall bring action, in the name of the state upon the relation of such board, for any breach of the bond of the treasurer of the county school fund, and on its failure to bring such action it may be brought in the name of the state on the relation of any taxpayer.

1901, c. 4, s. 47.

4057. To keep detailed account of receipts; to accept money only. The treasurer of the county school fund shall keep a book in which shall be entered a full and detailed account of all public school moneys received by him, the name of each person paying him school money, the source from which the same may have been derived, and the date of such payment. In his settlement with the sheriff or other collecting officer of public school funds the treasurer shall receive money only.

1901, c. 4, s. 52.

4058. To pay only such orders as allowed herein. Every order for the payment of a teacher's salary, for building, repairs, school furnishings, or for the payment of money for any purpose whatsoever, before it shall be a valid voucher for the county treasurer, shall be signed first by at least two members of the school committee, then by the county superintendent. No order shall be signed by the county superintendent for more money than is to the credit of that district for the fiscal year, nor shall he endorse the order of any teacher who does not produce a certificate as required by law. The treasurer shall not pay any school money for building or repairing any school-house unless the site on which it is located has been donated to or purchased by the county board of education and the deed for the same regularly executed and delivered to such board and probated and registered in the office of the register of deeds for the county and delivered to the clerk of the superior court, to be by him safely deposited with his valuable official papers, and surrendered to his successor in office.

1901, c. 4, s. 48.

4059. To be at his office on last Saturday in month. The treasurer of the county school fund shall, on the last Saturday of each month, attend at his office for the purpose of paying school orders; but this shall not prevent the payment of orders at other times.

1901, c. 4, s. 58.

4060. To keep an account with each township and district; annual report of balances. It shall be the duty of the treasurer of the county school fund to keep a book in which he shall open an account with each township in the county, showing the amount apportioned to such township by the county board of education. He shall also open an account with each school district showing the amount apportioned to such district. He shall record all payments of school money, giving the date, the amount, the person to whom paid, and for what purpose paid. He shall balance the account of each township and district annually, on the thirtieth of June, and shall report by letter or printed circular, within ten days thereafter, such balances to the county board of education and to the school committee.

1901, c. 4, s. 49.

4061. To report annually to state superintendent and to county board. The treasurer of the county school fund shall report to the state superintendent of public instruction on the first Monday of August of each year the entire amount of money received and disbursed by him during the preceding school year, designating by items the amounts received respectively from property tax, poll tax, liquor licenses, fines, forfeitures and penalties, auctioneers, estrays, from state treasurer and from other sources. He shall also designate by item the sum paid to teachers of each race respectively, for school-houses, school sites in the several districts, and for all other purposes specifically, and in detail, by item, and on the same date he shall file a duplicate of such report in the office of the county board of education. He shall make such other reports as the county board of education of the county may require from time to time. Whenever the sheriff or other collecting officer pays over money to the treasurer of the school fund he shall designate the items as indicated in this section, and these items shall be stated in the receipts given by the treasurer.

1901, c. 4, ss. 51, 56.

4062. Duties on expiration of his term. Each treasurer of the county school fund in going out of office, shall deposit in the office of the board of education of his county his books in which are kept his school accounts, and all records and blanks pertaining to his office. If the term of office of any treasurer shall expire on the

thirtieth day of November during any fiscal school year, or if for any reason he shall hold office beyond the thirtieth day of November, and not for the whole of the current fiscal school year, he shall, at the time he goes out of office, file with the county board of education and with his successor a report, itemized, as required by the next preceding section, covering the receipts and disbursements for that part of the fiscal school year from the thirtieth of June preceding to the time at which he turns over the office to his successor, and his successor shall include in his report to the state superintendent the receipts and disbursements for the current fiscal year.

1901, c. 4, ss. 57, 58.

4063. To exhibit books, vouchers and money to county board. The treasurer of the county school fund shall, when required by the county board of education, produce his books and vouchers for examination, and shall also exhibit all moneys due the public school fund of the county at each settlement required by this chapter.

1901, c. 4, s. 50.

XIV. TEACHERS.

4064. School committee to employ and dismiss teachers; notice; contracts. The school committee shall have authority to employ and dismiss teachers. The committee shall meet at convenient times and places for the employment of teachers for the public schools, and no teacher shall be employed by any committee except at a regularly called meeting of such committee, due notice of such meeting having been given at three public places by the committee. The county superintendent shall be notified at once by the secretary of the committee of the name of the teacher elected, and a copy of the contract, duly signed and recorded, shall be filed with the county superintendent; and no voucher for the salary of a teacher of any school shall be signed by any county superintendent unless a copy of such teacher's contract has been filed with him as herein provided, and unless he shall have received satisfactory evidence that such teacher has been elected in strict accordance with this section. No contract for teachers' salaries shall be made during any year to extend beyond the term of office of the committee, nor for more money than accrues to the credit of the district for the fiscal year during which the contract is made.

1901, c. 4, ss. 20, 22, 34; 1901, c. 3, s. 1; 1903, c. 435, ss. 7, 16.

4065. Examined by county superintendents; proficiency; graduation. The county superintendent of each county shall examine all applicants, of good moral character, for a teacher's certificate at the courthouse in the county on the second Thursday of July and October of each year, and continue the examination from day to day

during the remainder of the week, if necessary, till all applicants are examined, and for the examination of teachers at any time than above named, he shall require of each applicant a fee of one dollar, in advance, and all fees for private examination shall be paid by the county superintendent to the treasurer of the county school fund to go to the general school fund of the county. The place for holding the examination of teachers shall be at the county seat, but other places in the county may be designated by the county superintendent when in his discretion it may be for the convenience of the teachers of his county. A general average of ninety per centum and over shall entitle an applicant to a first-grade certificate; a general average of eighty per centum and over shall entitle the applicant to a second-grade certificate; and a general average of seventy shall entitle an applicant to a third-grade certificate. The certificates shall be valid only in the county in which they are issued and for one year from date, except that first-grade certificates shall be valid for two years. The county superintendent shall hold his examinations publicly, and may invite competent persons to assist him in such examination. He shall keep a copy of all examination questions, both public and private, and forward copies to the state superintendent upon request. No superintendent shall renew any second-grade certificate except upon re-examination.

1901, c. 4, s. 37.

4066. Age, qualifications, certificates, grades and pay of; school month defined. No person shall be employed as a teacher who does not produce a certificate from the county superintendent, dated within the time prescribed by law and continuing to the end of the term. No certificate to teach shall be issued to any person under eighteen years of age. Teachers of second grade shall receive not more than twenty-five dollars per month out of the public fund, and teachers of the first grade may receive such compensation as shall be agreed upon. Teachers of the third grade shall receive not more than twenty dollars per month, but no third-grade certificate shall be renewed and no holder of a third-grade certificate shall be employed except as an assistant teacher. No teacher shall receive any compensation for a shorter term than one month unless provisionally hindered from completing the term. Twenty school days of not less than six hours nor more than seven hours each day shall be a month. The school term shall be continuous as far as practicable. All laws and clauses of laws granting to, or conferring upon, the graduates or ex-students or students of any institution of learning, private or public, within this state or elsewhere, immunity, exemption, or freedom from the operation of laws of this state requiring persons who desire to teach in free public schools of the

state to submit to and pass regular examinations before the county superintendents before being duly qualified to serve as such teachers, are hereby repealed. The county board of education shall fix, within the limits above prescribed, the maximum salary to be paid to teachers in each school in the county.

1901, c. 4, ss. 22, 24, 27, 34; 1901, c. 3, s. 2; 1901, c. 535; 1903, c. 435, ss. 9, 16.

4067. Salary, how paid; closing schools for nonattendance of pupils. At the end of every term of a public school, the teacher or principal of the school shall exhibit to the school committee a statement of the number of pupils, male and female, the average daily attendance, the length of term and the time taught. If the committee is satisfied that the provisions of this chapter have been complied with, they shall give an order on the treasurer of the county school fund, payable to such teacher, for the full amount due for services rendered; but monthly, and, if required by the county superintendent, weekly statements and reports shall be made by the teacher to the committee, and to the county superintendent; orders on the treasurer shall be valid when signed by two members of the committee and countersigned by the county superintendent. When a monthly or weekly report of any school where the district does not contain over one hundred and fifty children shows an average daily attendance of less than one-fifth of the school census, the committee or county superintendent shall at once order the school to be closed and the money due such school shall remain to the credit of that school; but all funds remaining to the credit of such school at the close of the school year, unused because of nonattendance, shall be returned to the general fund for reapportionment, unless such nonattendance shall have been caused by providential or other unavoidable causes. And the county board of education, upon the recommendation of the county superintendent, shall have authority to close any school for either race in any township before it shall have continued for the average length of school term for the township, in case the attendance does not justify the continuance of the school, and the money remaining to the credit of such district thus closed for nonattendance shall be returned to the general school fund.

1901, c. 4, ss. 23, 24; 1903, c. 435, ss. 8, 9.

4068. Keep record; report to county superintendent, also to state superintendent, when. Every teacher of a public school, and principal of a school to which aid shall be given under this chapter, shall keep a daily record of the attendance of pupils. At the end of every term every such principal and teacher shall report to the county superintendent the length of term of school, the race for which it was taught, the number, sex and average daily attendance of the pupils, and the number of the district in which the school is taught, the num-

ber of children on census blank not attending any school during the year, number of children under seventeen years of age not attending any school, and shall state some causes why they do not attend; how many families having children of school age did not send any of their children to school, how many families did; what personal effort was made to get such children to attend school; number of children studying each of the following subjects: Primary arithmetic, intermediate arithmetic, advanced arithmetic, primary geography, intermediate geography, language lessons, elementary English grammar, higher English grammar, elementary history of North Carolina, advanced history of North Carolina, elementary history of United States, higher history of United States, elementary physiology and hygiene, advanced physiology and hygiene, civil government, Latin, algebra, higher English. Teachers shall file with their registers at the end of the school term an accurate record of the promotion, advancement and classification of every child attending the school just closed. The principal or superintendent of every school or institution of learning supported in whole or in part by public funds shall report to the state superintendent at such time and in such form as he may direct, and shall also report to the county superintendent of the county in which such school or institution of learning is situated.

1901, c. 4, ss. 64, 66; 1903, c. 435, s. 21.

4069. To maintain order and encourage virtue; to dismiss improper pupils. It shall be the duty of all teachers of free public schools to maintain good order and discipline in their respective schools; to encourage morality, industry and neatness in all of their pupils, and to teach thoroughly all branches which they are required to teach. Pupils who wilfully and persistently violate the rules of the school and any of immoral life and character shall be dismissed by the teacher.

1901, c. 4, s. 63.

4070. Teachers' institutes and schools, how conducted; teachers must attend. The county board of education of any county may annually appropriate an amount not exceeding two hundred dollars out of the school funds of the county for the purpose of conducting one or more teachers' institutes for the county, or the county boards of education of two or more adjoining counties may appropriate an amount not exceeding two hundred dollars to each county, for the purpose of conducting a teachers' institute and school for such counties at some convenient and satisfactory point. All teachers of any county for which such institute is held are hereby required to attend the same continuously during the session thereof for at least two weeks, if the institute continue so long; and, upon failure to

do so, unless providentially hindered, shall be debarred from teaching in any of the public schools of this state for the term of one year, or until such teacher shall have attended some county institute and school in some other county. A county teachers' institute under this section shall be conducted by the county superintendent of public instruction, assisted by some member of the state board of examiners, or a member of the faculty of the normal department of the university of North Carolina, or of the state normal and industrial college, or of the agricultural and mechanical college at Raleigh, or by some practical teacher or teachers appointed by the state superintendent of public instruction. A properly signed certificate of attendance for two weeks or more in the same year on any summer school of good standing in the state may be accepted by the county superintendent as a substitute for attendance of any teacher in his county on the teachers' institute and school for that county; and no teacher shall be required to attend such county teachers' institute and school two consecutive years.

1901, c. 4, s. 26; 1901, c. 3, s. 3; 1903, c. 435, s. 10.

XV. CROATAN INDIANS.

4071. Separate schools for. The persons residing in Robeson, and Richmond counties, supposed to be descendants of a friendly tribe once residing in the eastern portion of this state known as the Croatan indians, and their descendants, shall be known and designated as the Croatan indians, and they and their descendants shall have separate schools for their children, school committees of their own race and color, and shall be allowed to select teachers of their own choice, subject to the same rules and regulations as are applicable to all teachers in the general school law, and there shall be excluded from such separate schools for the Croatan indians all children of the negro race to the fourth generation.

1885, c. 51, s. 2; 1889, c. 60, s. 1.

4072. County board to carry provisions into effect. It shall be the duty of the county board of education to see that the next preceding section is carried into effect, and shall for that purpose have the census taken of all the children of such indians and their descendants between the ages of six and twenty-one, and proceed to establish such suitable school districts as shall be necessary for their convenience, and take all such other and further steps as may be necessary for the purpose of carrying such section into effect. And where any children, descendants of such indians, shall reside in any district in such counties of Robeson and Richmond in which there are no separate schools provided for their race they shall have the right to attend any of the public schools in the county

provided for their race, and their share of the public school fund shall be appropriated to their education upon the certificate of the school committee in the district in which they reside, stating that they are entitled to attend such public schools.

1885, c. 51, ss. 3, 4.

4073. Pro rata share of school funds kept separate. The treasurer of the county school fund and other proper authorities whose duties it is to collect, keep and apportion the school fund, shall procure from the county board of education the number of children in the county between the ages of six and twenty-one, belonging to such indian race, and shall set apart and keep separate their pro rata share of the school funds, which shall be paid out upon the same rules in every respect as are provided in the general school law and in the next preceding section.

1885, c. 51, s. 4.

4074. General school law applicable to. The general public school law shall be applicable in all respects to such separate schools for the Croatan indians, except where such general law is repugnant to these special provisions relating to such schools; and these special provisions for separate schools for Croatan indians shall apply only to the counties of Robeson and Richmond.

1885, c. 51, s. 5.

XVI. SCHOOL LIBRARIES.

4075. How established; duties of school officials; manager appointed. Whenever the patrons and friends of any free public school shall raise by private subscription and tender to the treasurer of the county school fund, for the establishment of a library to be connected with such school, the sum of ten dollars, the county board of education shall appropriate, from the money belonging to that school district asking for the library, the sum of ten dollars for this purpose and shall appoint one intelligent person in the school district the manager of such library. The board shall also appoint one competent person well versed in books to select books for such libraries as may be established under these provisions from lists of books approved by the state superintendent of public instruction.

1901, c. 662, s. 6; 1903, c. 226, s. 1.

4076. State board of education to contribute. As soon as such board shall have made an appropriation for a library in the manner prescribed, the county superintendent shall inform the secretary of the state board of education of the fact, whereupon the

state board shall remit to the treasurer of the county school fund the sum of ten dollars additional for the purchase of books.

1901, c. 662, s. 7; 1903, c. 226, s. 2.

4077. Books and book-cases, how purchased. Within thirty days after the payment of the money to the treasurer of the county school fund, the person appointed to select the books shall submit the list of books to be purchased and prices of same to such treasurer, who shall order the books at once. The treasurer shall receive no compensation except his regular commission. The county board shall furnish, at the expense of the general county school fund, a neat book-case, with lock and key, to each library upon application of the county superintendent.

1901, c. 662, s. 8; 1903, c. 226, s. 3.

4078. Rules to be made by state superintendent. The local manager of every library shall carry out such rules and regulations for the proper use and preservation of the books as may be established by the state superintendent of public instruction.

1901, c. 662, s. 9; 1903, c. 226, s. 4.

4079. Exchange of libraries. The local managers of two or more libraries may by agreement exchange libraries; but no exchange shall be made oftener than once in six months and no part of the expense of exchanging libraries shall be paid out of the public funds.

1901, c. 662, s. 10; 1903, c. 226, s. 5.

4080. Enlargement of libraries, appropriations for. Whenever the patrons and friends of any free public school in which a library has been established under the provisions of this subchapter shall raise by private subscription and tender to the treasurer of the county school fund the sum of five dollars for the enlargement of the library, the county board of education shall appropriate from the money belonging to that school district the sum of five dollars and the state board of education shall remit to the treasurer of the county school fund the sum of five dollars. The money thus collected and appropriated shall be used for the enlargement of libraries already established under the same rules and restrictions as govern the establishment of new libraries.

1903, c. 226, s. 6.

4081. Number of libraries limited; cities and towns excluded, when. Not more than six new libraries shall be established in any county during any period of two years, and not more than six of those libraries already established in any county shall be entitled to the benefits of the next preceding section during any period of

two years. No school district in any incorporated town with a population exceeding one thousand persons shall receive any moneys under the provisions of this subchapter, nor shall any school district receive the benefits of this subchapter without the approval of the board of education.

1901, c. 662, s. 12; 1903, c. 226, s. 8.

4082. Additional appropriation of state funds. Seven thousand and five hundred dollars of the appropriation for the public schools of the state is hereby appropriated and set apart to be expended by the state board of education under the provisions of this subchapter. Of this amount a sum not exceeding five thousand dollars may be expended by the state board of education in the establishment of new libraries, and a sum not exceeding two thousand and five hundred dollars in the enlargement of libraries already established.

1901, c. 662, s. 11; 1903, c. 226, s. 7.

XVII. NORMAL SCHOOLS.

4083. State board may establish; also preparatory department; may remove or close existing schools. It shall be lawful for the state board of education to establish a normal school at any place it may deem most suitable, either in connection with one of the colored schools of high grade in the state, or otherwise, for teaching and training young men and women of the colored race, from the age of fifteen to twenty-five years, for teachers in the common schools of the state for the colored race. A preparatory department may be established in connection with the colored normal schools. And such board shall have the power to remove or close any of the existing state normal schools for the colored race.

Code, ss. 2651, 2652; 1881, c. 91, c. 141, s. 5; 1879, c. 54, ss. 1, 2; 1876-7, c. 234, s. 2; 1901, c. 565.

4084. Beneficiaries expected to teach three years. It will be required and expected of all young persons, who may be thus taught and trained for teachers of common schools at the cost of the state to apply themselves, as far as practicable, to the occupation of teaching, within the borders of this state, for a term of not less than three years after leaving school.

Code, s. 2653; 1876-7, c. 234, s. 3.

4085. State board of examiners; powers and duties. The state board of education shall elect biennially a state board of examiners, which shall consist of three professional teachers and the state superintendent of public instruction, who shall be ex officio the chairman of such board. The board of examiners shall prepare a course of study for the colored normal schools, fix all salaries and provide

for a summer school of not less than two weeks' duration, which all teachers in such normal schools shall be required to attend. One member of such board shall visit each of such colored normal schools annually, inspect the work and report in writing to the state superintendent of public instruction, who shall have the reports printed and submitted to the general assembly. Meetings of the state board of examiners shall be held at the call of the state superintendent of public instruction, and the members shall receive no compensation other than traveling expenses and board while attending upon their official duties, an itemized statement of which shall be kept in the books of the state superintendent of public instruction.

1901, c. 4, s. 70; 1903, c. 435, ss. 23, 27, c. 740.

4086. Boards of directors, election and powers of. The state board of education shall have power to appoint a board of five directors, not more than three of whom shall reside in the county in which the school is located, for each of the colored normal schools, and such board shall have the general management of such schools and shall have power to elect the teachers of the same and such other powers for the management of such schools as are not vested in the state board of education and in the state board of examiners. Such directors shall receive no compensation for their services other than actual expenses while attending meetings of the board.

1903, c. 740.

4087. Treasurer's duties. The treasurer shall pay such amount to each of the colored normal schools as shall be certified to him by the secretary of the state board of education.

1901, c. 565, s. 2; 1897, c. 465.

4088. Appropriations distributed. The state board of education shall have the power to distribute all the funds now appropriated to the state normal schools for the colored race, except the special appropriation under the next succeeding section, in such manner as in its judgment may best subserve the interest of such schools.

1901, c. 565; 1897, c. 465.

4089. Special conditional appropriation to Slater school. For the purpose of aiding the trustees of Slater Industrial and State Normal School, and for securing for the state the use of the buildings erected and now used by that corporation, the treasurer shall pay to the state board of education, out of any funds in the treasury not otherwise appropriated, a sum equal in amount to the sum annually raised by the trustees and officers of such corporation; but the amount to be so paid in any one year shall not exceed one thousand dollars.

1899, c. 561, ss. 1, 8.

4090. Appropriation. For the establishment, carrying on and maintenance of the state normal schools for the colored race, there is hereby appropriated annually from any funds in the treasury not otherwise appropriated, the sum of thirteen thousand dollars. This appropriation is in addition to the special conditional appropriation made by the next preceding section.

Code, ss. 2651, 2652; 1887, c. 408; 1895, c. 393, s. 2; 1895, c. 457; 1899, c. 561, s. 8; 1897, cc. 443, 521; 1903, c. 31.

XVIII. BLIND; COLORED DEAF AND DUMB.

4091. Incorporated. The institution for the education of the deaf and dumb and the blind located in the city of Raleigh, on Caswell square, and on a lot located in the eastern part of the city, belonging to the state, and on which the institution for the colored children is located, shall be a corporation under the name and style of the North Carolina Institution for the Education of the Deaf and Dumb and the Blind, and shall be under the management of a board of directors and principal.

Code, s. 2227; 1881, c. 211, s. 1.

4092. Directors, how appointed. The governor shall, by and with the consent of the senate, appoint seven directors for said institution. The directors shall be divided into three classes. The first class shall consist of three, and each of the other classes shall consist of two. The first class shall be appointed in one thousand nine hundred and five and every six years thereafter; the second class in one thousand nine hundred and seven, and every six years thereafter; the third class in one thousand nine hundred and nine and every six years thereafter. The governor shall fill all vacancies occurring by reason of death, resignation or otherwise. In case of vacancies occurring when the senate is not in session the appointees to fill such vacancies shall hold office until confirmed or rejected by the senate.

Code, s. 2228; 1899, c. 311; 1901, c. 707.

4093. President, executive committee, and other officials, how elected. The board of directors shall organize by electing one of its number president and three an executive committee. The terms of office in each case shall be for two years. The board shall elect a principal, who shall be ex officio secretary of the board, and whose term of office shall be for three years, also a steward and physician whose term of office shall be for two years, and such other officers, agents and teachers as shall be deemed necessary. The compensation for officers and agents and teachers, mentioned in this section, shall be fixed by the board, and shall not be increased nor reduced

during their term of service. The board shall have power to erect any buildings necessary, make improvements, or in general do all matters and things which may be beneficial to the good government of the institution, and to this end may make by-laws for the government of the same.

Code, s. 2229; 1881, c. 211, s. 3.

4094. When board to meet. The board shall meet at stated times and also at such other times as it may deem necessary.

Code, s. 2230; 1881, c. 211, s. 4.

4095. Who admitted; how admission obtained. The board of trustees shall, on application, receive in the institution for the purpose of education, in the main department, all white blind children, and in the department for the colored all colored deaf mutes and blind children, residents of this state, not of confirmed immoral character, nor imbecile, or unsound in mind, or incapacitated by physical infirmity for useful instruction, who are between the ages of eight and twenty-one years: Provided, that applications shall be made and applicants received at stated times, which shall be at the commencement of some scholastic year. In case of deaf mutes the following questions shall be answered:

Name?

Is the child white or colored?

When and where was he born?

Was he born deaf?

At what age did he lose his hearing?

By what disease or accident did he become deaf?

Is the deafness total or partial?

Have any attempts been made to remove the deafness?

Is there any ability to articulate or read on the lips?

Have any attempts been made to communicate instruction?

Is he laboring under any bodily infirmity?

Does he show any signs of mental imbecility or idiocy?

Has he had the smallpox or been vaccinated?

Has he had the scarlet fever?

Has he had the measles?

Has he had the mumps?

Has he had the whooping-cough?

Are there any other cases of deafness in the family?

Are there any cases of deafness among relatives or ancestors?

What is the name of the father?

What is the name of the mother?

What is the occupation of the father?

What is his postoffice address?

Is either of the parents dead?

Has a second connection been formed by marriage?

Was there any relationship between the parents previous to marriage?

In case of blind applicants the following questions shall be answered:

Name?

Is the child white or colored?

When and where was he born?

Was he born blind?

At what age did he become blind?

By what disease or accident did he become blind?

Is the blindness total or partial?

Have any attempts been made to remove the blindness?

Have any attempts been made to communicate instruction?

Is he laboring under any bodily infirmity?

Does he show any signs of mental imbecility or idiocy?

Has he had the smallpox or been vaccinated?

Has he had the scarlet fever?

Has he had the measles?

Has he had the mumps?

Has he had the whooping-cough?

Are there any other cases of blindness in the family?

Are there any cases of blindness among relatives or ancestors?

What is the name of the father?

What is the name of the mother?

What is the occupation of the father?

What is his postoffice address?

Is either of the parents dead?

Has a second connection been formed by marriage?

Was there any relationship between the parents previous to marriage?

When the application is made, it shall be filed in the office of the principal, and on reception of applicant, a record of such pupil shall be made and entered in a book to be kept for that purpose.

Code, s. 2231; 1881, c. 211, s. 5.

4096. Curable blind admitted. The directors of the institutions for the blind, in the city of Raleigh, shall set apart two rooms in said institutions, one for males and one for females, for the use of the curable blind who, by reason of poverty, are unable to pay for treatment. It shall be the duty of the directors of the institutions for the blind in Raleigh, to admit into such institutions, from time to time, such of the blind of the state as they may deem to be curable.

1895, c. 461.

4097. Pupils from other states admitted, when. The board may, on such terms as they deem proper, admit as pupils persons from any other state of like infirmity: Provided, such power shall not be exercised to the exclusion of any child of this state, and the person so admitted shall not acquire the condition of a resident of the state by virtue of such pupilage.

Code, s. 2232; 1881, c. 211, s. 6.

4098. Board may confer degrees. The board may, upon the recommendation of the principal and faculty, confer such degree or marks of literary distinction as may be thought best to encourage merit.

Code, s. 2233; 1881, c. 211, s. 7.

4099. Officers elected, when. The board of directors shall, on the second Monday in May, one thousand nine hundred and five, and every three years thereafter, elect an officer to be styled principal. They may elect all officers and teachers at the same time: Provided, that the terms of office of the principal and steward shall begin June first, and the terms of all other officers and teachers shall begin September first, and for the terms named in this chapter. The principal shall be a man of good moral character, and shall have experience as a teacher in the deaf, dumb and blind school of North Carolina, or some similar institution, for the term of two or more years. He shall have charge of the institution in all its departments, and shall do and perform such duties and exercise such supervision as is incumbent upon such officer.

Code, s. 2234; 1889, c. 539; 1893, c. 137; 1901, c. 707, s. 2; 1881, c. 211, s. 8.

4100. State treasurer, treasurer of. The state treasurer shall be ex officio treasurer of the institution. He shall report to the board at such times as they may call on him, showing the amount received on account of the institution, amount paid out, and amount on hand. The board shall make a report to the governor on the first of January next before the regular meeting of the general assembly, showing the condition of the institution in its various departments, and shall give any information the governor shall desire from time to time.

Code, s. 2235; 1881, c. 211, s. 9.

4101. Board may remove officers, when. The board shall have power to remove any officer, employee or teacher for gross immorality, wilful neglect of duty, or any good and sufficient cause; but in any such case notice in writing of the charges shall be served on the accused, proved and entered on record. The board shall fill all vacancies which may occur from any cause.

Code, s. 2236; 1881, c. 211, s. 10.

4102. Employees, how paid. The principal, subject to the control of the board, shall have power to employ all employees and fix their compensation, and to discharge them at pleasure.

Code, s. 2237; 1881, c. 211, s. 11.

4103. When clothing, etc., for pupils paid for by state. Where it shall appear to the satisfaction of the governor, upon the affidavit of two respectable citizens, that the parents of any deaf mute or blind child are unable to provide said child with clothing and for expenses to and from the institution, or where the child has no living parents or any estate of its own, then the governor shall draw upon the auditor for an amount sufficient to clothe him and pay said expenses, and the auditor, upon the state treasurer, who shall pay the same: Provided, the auditor shall charge said amount to the county from which said child came and add it to the tax list of the sheriff of said county and collect the same as other amounts due the state: Provided further, the amount charged shall in no case exceed twenty dollars per year for any pupil.

Code, s. 2238; 1879, c. 332, s. 1.

4104. Garden for schools. The board of directors shall have the lot in front of the colored institution for the purpose of a garden for the pupils, and the sale of a portion of said lot, and all notes and papers may be cancelled, provided the purchasers will agree to give up the bonds, receive their notes and the amount of money advanced by them, and to this end the governor is fully empowered to effect this arrangement.

Code, s. 2239; 1879, c. 332, s. 2.

4105. Farm vested in. The farm of one hundred acres, now held by the said school, west of the city of Raleigh, shall be held in fee-simple by the board of directors of said institution, to be improved, or used as the best interests of the said institution, in its judgment, may require or demand.

1901, c. 707, s. 3.

XIX. DEAF AND DUMB.

4106. Incorporated. There shall be maintained a school for the white deaf and dumb children of the state which shall be a corporation under the corporate name of The North Carolina School for the Deaf and Dumb, to be located upon the grounds donated for that purpose near the town of Morganton.

1891, c. 399, s. 1.

4107. Directors, how elected. Such school shall be under the control and management of a board of directors consisting of seven

members, who shall be appointed by the governor and hold their offices for the term of six years; said board shall be divided into three classes, the first class shall be elected in one thousand nine hundred and nine, the second class in one thousand nine hundred and seven, the third class in one thousand nine hundred and five, and each class shall thereafter be elected every six years. If any vacancy shall occur by death, removal or other cause the same shall be filled for the unexpired term by appointment of the governor. Said directors shall hold their office until their successors shall be elected and qualified, but not more than two of them shall be from the same county.

1891, c. 399, s. 2; 1901, c. 210.

4108. To educate pupils; who admitted to. The board of directors shall, according to such reasonable regulations as it may prescribe, on application, receive into the school for the purposes of education all white deaf mutes resident of the state not of confirmed immoral character, nor imbecile or unsound in mind or incapacitated by physical infirmity for useful instruction, who are between the ages of eight and twenty-three years. The board shall provide for the instruction of all pupils in the branches of study now prescribed by law for the public schools of the state and in such other branches as may be of special benefit to the deaf and dumb. As soon as practicable, the boys shall be instructed and trained in such mechanical pursuits as may be suited to them, and in practical agriculture and subjects relating thereto; and the girls shall be instructed in sewing, house-keeping and such arts and industrial branches as may be useful to them in making themselves self-supporting.

1891, c. 399, ss. 7, 8.

4109. Power of board. The board shall have power to make such by-laws, rules and regulations, not inconsistent with the laws of the state, as may be necessary for the proper management of said school and its officers; and shall conduct the school in such way, as far as practicable, as to make it self-sustaining, and is authorized to make such arrangements with the board of directors of the state hospital at Morganton as may be agreed upon to promote convenience and economy for joint water-supply and lighting arrangements.

1891, c. 399, ss. 8, 9, 10.

4110. Power and duties of board of directors. The board of directors shall organize by appointing one of its number president and three an executive committee, who shall hold office for two years; they shall elect a superintendent, who shall be ex officio secretary of the board and whose term of office shall be three years, and such other officers, teachers and agents as shall be deemed nec-

essary. The compensation for officers, teachers and agents shall be fixed by the board and shall not be increased or reduced during their term of service. The superintendent shall be a teacher of knowledge, skill and ability in his profession and experience in the management and instruction of mutes. He shall possess good executive ability and shall be the chief executive officer of the institution. He shall devote his whole time to the supervision of the institution, and shall see that the pupils are properly instructed in the branches of learning and industrial pursuits as provided for in this subchapter and under the supervision of the board. The board shall elect all teachers and subordinate officers by and with the consent and recommendation of the superintendent.

1893, c. 131, ss. 1, 2.

XX. AGRICULTURAL AND MECHANICAL COLLEGE—WHITE.

4111. Appropriations by Congress. The appropriations made or which may hereafter be made by the Congress for the benefit of colleges of agricultural and mechanical arts shall be divided between the white and colored institutions in this state in the ratio of the white population to the colored, as ascertained by the preceding national census.

1899, c. 370, s. 8.

4112. Incorporated. The North Carolina college of agriculture and mechanic arts shall, under that name, be a body politic and corporate, with the right to hold property for the benefit of such college.

1899, c. 370, s. 1.

4113. Object of. The object of this college shall be to teach the branches of learning relating to agricultural and mechanical arts and such other scientific and classical studies as the board of trustees may elect to have taught, and to promote the liberal and practical education of the industrial classes in the several pursuits and professions of life.

1899, c. 370, s. 2.

4114. Management of. The management and control of the college shall be vested in the board of agriculture and the members thereof, and the said board shall constitute the board of trustees of the college and shall exercise all the powers and be subject to all of the duties imposed by this chapter.

1901, c. 650, s. 1.

4115. Meetings; president; executive committee. The board of trustees shall meet annually in the city of Raleigh at such time as it may fix, and elect from its number a president, and an execu-

tive committee of three, one of whom shall be the president of the board of trustees. The executive committee shall meet at the call of the president and perform such duties as the trustees may assign to them. The members of the board of trustees shall receive their mileage and hotel fare while in attendance upon the meetings of the board. No member of the board of trustees shall be allowed his expenses for more than five meetings during the year, unless he be a member of the executive committee.

1899, c. 370, s. 10; 1901, c. 650, s. 1.

4116. Board of visitors. The governor shall appoint a board of visitors to consist of eleven members. The commissioner of agriculture and the president of the college shall also be *ex officio* members of the board of visitors. The board shall at least once, and not more than twice in each year visit and inspect the college, and make such recommendations to the board of trustees for the conduct of the college as they may deem proper. The board shall elect a chairman and shall meet at such times, not exceeding twice a year, as the chairman may designate. The members of the board shall hold their office for six years, and shall serve without compensation; but their actual expense of traveling and board shall be paid when attending the sessions of the board. The members of the board shall be appointed as follows: Four in March, one thousand nine hundred and five, and every six years thereafter; three in March, one thousand nine hundred and seven, and every six years thereafter; four in March, one thousand nine hundred and nine, and every six years thereafter.

1901, c. 650, s. 3.

4117. Lands and other property. The board of agriculture shall use, as in its judgment may be proper, for the purpose of such college and for the benefit of education in agriculture and mechanic arts, as well as in furtherance of the powers and duties conferred upon such board by existing laws, any funds, buildings, lands, laboratories and other property which may be in its possession. The board of trustees shall have power to accept and receive on the part of the state property, personal, real or mixed and any donations from the United States Congress to the several states and territories for the benefit of agricultural experiment stations or the agricultural and mechanical colleges in connection therewith, and shall expend the amount so received in accordance with the acts of the Congress in relation thereto.

1901, c. 650, s. 2; 1899, c. 370, s. 6.

4118. Land script fund. The board of trustees shall own and hold the certificates of indebtedness, amounting to one hundred and

twenty-five thousand dollars, issued for the principal of the land script fund, and the interest thereon shall be paid to them by the state treasurer semi-annually on the first day of July and January in each year for the purpose of aiding in the support of such college in accordance with the act of the Congress approved July second, one thousand eight hundred and sixty-two, entitled "An act donating public lands to several states and territories which may provide colleges for the benefit of agriculture and the mechanic arts."

1899, c. 370, s. 5.

4119. College officers and instructors. The board of trustees shall appoint the president and instructors of the college and all other officers and servants that may be necessary. The board shall have charge of the disbursement of its funds and shall have full supervision and control, and shall be charged with the maintenance of the college. The state treasurer shall be ex officio treasurer of the board of trustees. The president and instructors, under the direction and supervision of the trustees, shall have power to confer such certificates of proficiency or marks of merit as may be deemed proper.

1899, c. 370, s. 4.

4120. Free tuition. The board of trustees shall admit to the benefits of the college, free of any charge for tuition, upon proper evidence of good moral character and of their inability and the inability of their parents or guardians to pay their tuition and of their capacity to receive instruction one hundred and twenty youths, limited to one for each member of the house of representatives, and no more, and shall apportion the same to the different counties applying according to their relative number of members in the house of representatives of North Carolina. And it shall be the duty of the superintendent of public instruction in each county, on the days fixed by law for the examination of teachers of the public schools, also to examine candidates for county students to such college; blanks for such purpose to be furnished annually by the president of the college to the superintendents in each county.

1899, c. 370, s. 7; 1903, c. 402, s. 11.

4121. Experiment station. The agricultural experiment and control station shall be connected with such college and controlled by the board of trustees thereof.

1899, c. 370, s. 6.

Note. The agricultural experiment and control station is governed largely by acts of Congress, see acts of July 2, 1862; March 2, 1887; August 30, 1890; see also Bulletin No. 59 of United States Department of Agriculture, which gives very complete information on the subject and contains copies of the acts here referred to.

4122. Sewerage connections. The board is empowered to contract with adjacent owners and allow them to connect with the sewer constructed for the college under chapter seven hundred and four of the public laws of one thousand eight hundred and ninety-nine, upon payment of a proper sum for the privilege.

1899, c. 704.

4123. Maintenance. For the support of the college there is appropriated to be paid out of the state treasury annually the sum of ten thousand dollars.

1895, c. 145; 1903, c. 402, s. 11.

4124. Uses of building. The agricultural building, built under the authority of chapter six hundred of the laws of one thousand nine hundred and three, shall be used for conducting investigations and instruction in respect to milk and beef cattle, diseases of animals, trucking, fruit-growing, commercial fertilizers, diversified farming and other subjects pertaining to practical agriculture.

1903, c. 600, s. 2.

XXI. AGRICULTURAL AND MECHANICAL COLLEGE—COLORED.

4125. Establishment and name. A college of agriculture and mechanical arts is hereby established for the colored race, to be located at some eligible site within this state. Such institution shall be denominated the Agricultural and Mechanical College for the Colored Race.

1891, c. 549, ss. 1, 2.

4126. Leading object of the college. The leading object of the institution shall be to teach practical agriculture and the mechanic arts and such branches of learning as relate thereto, not excluding academical and classical instruction.

1891, c. 549, s. 3.

4127. Management of. The management and control of the college and the care and preservation of all of its property shall be vested in a board of trustees, who shall be elected by the general assembly. The board of trustees shall consist of fifteen members, five of whom shall be elected at each regular session of the general assembly and shall hold office for six years. Any vacancy which, for any cause, may occur, shall be filled by the governor for the unexpired term. The board shall annually elect one of their number to be president of the board of trustees.

1891, c. 549, s. 4; 1899, c. 389, s. 1.

4128. Meetings; compensation; executive board. The number and times of the meeting of the board of trustees shall be fixed by the board, and the trustees shall not receive any pay or per diem, but only their traveling expenses and hotel fare and that only for four times in each year. The board of trustees shall have power to elect an executive board of three of their own number, who shall have the immediate management of the institution when the full board is not in session.

1899, c. 389, ss. 2, 3.

4129. Powers of trustees. The board of trustees shall have power to prescribe such rules for the management and preservation of good order and morals at the college as are usually made in such institutions; shall have power to appoint its president, instructors, and as many other officers or servants as to them shall appear necessary and proper, and shall fix their salaries, and shall have charge of the disbursement of the funds, and have general and entire supervision of the establishment and maintenance of the college, and the president and instructors in the college, by and with the consent of the board of trustees, shall have the power of conferring such certificates of proficiency or marks of merit and diplomas as are usually conferred by such colleges.

1891, c. 549, s. 5.

4130. Admission of pupils. In addition to the powers hereinbefore granted, the board of trustees shall have power to make such rules and regulations with respect to the admission of pupils to the college for the various congressional districts of this state as they may deem equitable and right, having due regard to the colored population thereof.

1891, c. 549, s. 7.

4131. Property; donations; funds. The board of trustees is empowered to receive any donation of property which may be made to the college, and shall have power to invest or expend the same for the benefit of the college; and shall have power to accept on behalf of this college such proportion of the fund granted by the Congress of the United States to the state of North Carolina for industrial and agricultural training as is apportioned to the colored race, in accordance with the act or acts of the Congress in relation thereto.

1891, c. 549, ss. 6, 12.

4132. Apportionment for maintenance. The sum of seven thousand five hundred dollars is annually appropriated to the agricultural and mechanical college for the colored race at Greensboro; and all other appropriations are hereby revoked.

1895, c. 146; 1903, c. 402, s. 12.

XXII. APPALACHIAN TRAINING SCHOOL.

4133. Incorporation; name; acquisition of property; vacancies, how filled. The persons named in section one of chapter seven hundred and ninety-eight of the public laws of one thousand nine hundred and three and their successors are and shall continue to be a corporation under the name of the Appalachian Training School for Teachers, and as such may sue and be sued, may purchase and hold real estate and personalty, receive donations, and do all things useful and necessary to carry out the true intent and meaning of said chapter. But all real property acquired for the purpose of such corporation under the provisions of said chapter shall be conveyed by deed to the state of North Carolina. The incorporators shall fill all vacancies in their body which may occur for any cause, which vacancies shall be filled from residents of the county from which the vacancy may occur.

1903, c. 798, ss. 1, 9, 11.

4134. Objects of the corporation; free tuition. The object in creating such corporation is the establishment of a training school for teachers, in western North Carolina, to which end tuition in such school shall be free to all persons of the white race in the state who shall sign a pledge to teach in the public schools of North Carolina for a term of not less than two years.

1903, c. 798, s. 6.

4135. Meetings; election of officers; treasurer's bond. The incorporators shall meet annually at a time and place to be fixed by them, and elect a president and secretary and treasurer of the corporation. The treasurer shall give a bond, with sufficient surety, to be approved by the incorporators, payable to the state of North Carolina, in a sum not less than double the amount of money that shall go into his hands.

1903, c. 798, ss. 2, 10.

4136. Subscriptions may be solicited. The incorporators shall open books of subscription, and shall have power to appoint an agent to solicit and collect subscriptions for the purpose of erecting buildings suitable and necessary for the establishment of such school.

1903, c. 798, s. 3.

4137. Teachers, election of; length of school term. The incorporators shall elect all teachers and fix their salaries and the length of the term of the school.

1903, c. 798, s. 8.

4138. Annual reports to be made to state superintendent. Full annual reports of the works of the corporation and complete financial statements of the treasurer shall be made annually to the state superintendent of public instruction on or before the first day of October, and such other reports as such superintendent may require.

1903, c. 798, s. 11.

4139. Appropriation. The sum of two thousand dollars is annually appropriated for the payment of teachers and the maintenance of such school.

1903, c. 798, s. 5.

XXIII. CROATAN NORMAL SCHOOL.

4140. Incorporation; location of school; vacancies. The persons named in section one, chapter four hundred, of the public laws of one thousand eight hundred and eighty-seven, and others who have been or may be associated with them, and their successors, are and shall be a corporation for educational purposes, in the county of Robeson, under the name and style of the Croatan Normal School, and by that name may have perpetual succession, may sue and be sued, contract and be contracted with, have and hold school property, including buildings, lands and all appurtenances thereto, situated in the county of Robeson, at any place in that county to be selected by the trustees between Bear swamp and Lumber river; acquire by purchase, donation or otherwise, real and personal property for the purpose of establishing and maintaining a school of high grade for teachers of the Croatan race in North Carolina. The corporators shall have full power to fill all vacancies by death, removal or otherwise in their number. A majority vote of all the corporators shall be necessary to a choice.

1887, c. 400, ss. 1, 6.

4141. President, election and duties of. The corporators shall elect one of their own number president of the corporation, whose duties shall be such as devolve upon such officers in similar cases, or such as shall be defined by the corporators.

1887, c. 400, s. 2.

4142. Trustees may contract; no personal liability. The corporators, in the name of the corporation, shall have full power to rent, lease, mortgage or sell any real or personal property for the purpose of maintaining such school, discharging indebtedness or reinvesting the proceeds for a like purpose. The corporators shall

not be personally liable for any debt or other liability of the corporation.

1887, c. 400, s. 3.

4143. Tax exemption. All property, real and personal, acquired by this corporation, by purchase, donation or otherwise, as long as it is used for educational purposes, shall be exempt from taxation, whether on the part of the state or county.

1887, c. 400, s. 8.

4144. Teachers, how employed. The corporators shall have full power and authority to employ teachers in such normal school under such regulations as they may determine, but such employment shall be under the supervision of the board of education of Robeson county, and no contract with any such teacher shall be of any binding force or effect until the same shall have been submitted to and ratified by such board of education.

1887, c. 400, s. 5; 1891, c. 137.

4145. Admission and qualifications of pupils. Persons of the Croatan race of either sex who are not under thirteen years of age may attend such school; and children not under eleven years of age may be admitted who can stand an approved examination in spelling, reading, writing, primary geography and the fundamental rules of arithmetic. All those who shall enjoy the privileges of such school as students shall previously obligate themselves to teach the youth of the Croatan race for a stated period.

1887, c. 400, s. 10; 1893, c. 515, s. 2.

4146. Appropriation from state literary fund. The sum of five hundred dollars is hereby annually appropriated to the support of such school. The sum so appropriated shall be paid out of the state literary fund, in semi-annual payments, upon warrants drawn by the state superintendent of public instruction upon receipt by him of a report of the corporators of the school showing the number of teachers employed, the amount paid to each teacher, the number of students in attendance during the term of six months next preceding the day on which such warrant is applied for, and shall be expended for the payment of services rendered for teaching and for no other purpose.

1887, c. 400, s. 7; 1889, c. 60, s. 2.

XXIV. CULLOWHEE HIGH SCHOOL.

4147. Incorporation; powers and duties; no personal liability. The persons named in section one, chapter one hundred and seventy of the private laws of one thousand eight hundred and ninety-one,

and their successors, who have been or who may hereafter be elected as hereinafter provided, are and shall continue to be a corporation under the name and style of the Cullowhee High School, for the purpose of establishing a high school in the Cullowhee valley, near Painter, Jackson county, with the privilege of a common seal to be altered at their pleasure, and with power to sue and be sued, contract and be contracted with, hold such real and personal property, by purchase, donation or otherwise as they may consider necessary for the establishment and maintenance of such school, not to exceed fifty thousand dollars, and make all rules, regulations, by-laws and agreements needful for the government of the corporation and the high school, and for carrying into effect the purpose of the corporation, and do all other acts pertaining to similar corporations and not inconsistent with the laws of this state or the United States. The corporators shall not be personally liable for the debts of the corporation.

1891 (Pr.), c. 170, ss. 1, 6.

4148. Trustees; election, term of office, vacancies. The terms of office of the corporators shall be three years from the date of their election. The corporators shall meet annually and hold an election to fill vacancies as they occur, so that one-third may be elected each year, each being subject, however, to removal at any time by a majority of the corporators for inefficiency or other just cause. In case of a vacancy by death, resignation or otherwise, such vacancy may be filled by a majority of the corporators present at any regular session.

1891 (Pr.), c. 170, s. 2.

4149. Officers, election, number, terms and duties of; quorum of trustees. The corporators shall elect one of their number president of the corporation and such other officers as they may deem necessary; and they may prescribe the mode of the election of such officers, with the terms thereof, and may enact laws for the regulation of the duties of all officers whom they elect. Five corporators shall be a quorum for the transaction of business.

1891 (Pr.), c. 170, s. 3.

4150. School officers and teachers, election of. The corporators shall have the exclusive right to elect a president of the high school and such teachers as they may think proper.

1891 (Pr.), c. 170, s. 4.

4151. Diplomas may be granted. The faculty of the high school shall, with the advice and consent of the corporators, have power to

grant diplomas conferring such degrees as are usually conferred by chartered institutions of learning.

1891 (Pr.), c. 170, s. 5.

4152. Normal department; state superintendent's powers; free tuition. There shall be established in connection with such high school a normal department to fit and train young men and women for the position of teachers in the public schools of the state. The normal department shall be under the supervision of the state superintendent of public instruction, who shall have power to prescribe rules for the regulation and management of the same; and shall also have power, upon being satisfied that such normal department is inefficient or unnecessary, to discontinue the same, and the appropriation provided for the support and maintenance thereof shall thereupon cease. Young men and young women who are preparing themselves for teachers shall pay no charges for tuition in such department.

1893 (Pr.), c. 120; 1901, c. 535.

4153. Board of local managers of normal department. The persons named in section two of chapter two hundred and thirteen of the private laws of one thousand eight hundred and ninety-seven, and in sections two and three of chapter one hundred and eighty-three of the private laws of one thousand eight hundred and ninety-nine, and their successors elected or to be hereafter elected shall constitute a local board of managers of the normal department, which board shall have the general management of and shall elect the teachers of the normal department. In case of a vacancy by death, resignation or otherwise in such board, such vacancy shall be filed by the remaining members of the board.

1897 (Pr.), c. 213, s. 2; 1899 (Pr.), c. 183, s. 4; 1899 (Pr.), c. 47, s. 3.

4154. Appropriation. For the support and maintenance of the normal department of such school, two thousand dollars is annually appropriated.

1893 (Pr.), c. 120; 1897 (Pr.), c. 213, s. 1; 1903, c. 402, s. 9.

XXV. THE STATE NORMAL AND INDUSTRIAL COLLEGE.

4155. Incorporated. The members of the board of directors of the institution for the education of girls of the white race, which institution is the property of the state and is now located at Greensboro, are and shall continue to be a corporation under the name of The State Normal and Industrial College, with all the powers usually conferred upon such bodies enabling it to receive, protect and hold

property, and do all things necessary for the purpose for which the corporation is created.

1891, c. 139, s. 1; 1897, c. 230, s. 1.

4156. Directors; election, qualifications and number; state superintendent a member and president of. The corporation shall be managed by a board of nine directors, no two of whom shall be chosen from the same congressional district. The term of office of each director shall be six years. The state board of education, by and with the advice and consent of the senate, shall appoint directors to fill vacancies as they may respectively occur by the expiration of the terms of office of the present incumbents. Vacancies that may occur by death or resignation shall be filled for the unexpired term by the state board of education. All directors shall take an oath faithfully to perform their duties as required by law, and shall hold office until their successors shall be elected and qualified. The state superintendent of public instruction shall be an additional member of the board of directors and shall be its president. The board of directors shall report biennially, before the meeting of each general assembly, to the governor the operations of the corporation.

1891, c. 139, s. 3.

4157. Objects of corporation; free tuition. The objects of the corporation shall be to give young women such education as shall fit them for teaching; and to give instruction to young women in drawing, telegraphy, typewriting, stenography, and such other industrial arts as may be suitable to their sex and conducive to their support and usefulness. Tuition shall be free, to those who signify their intention to teach, upon such conditions as may be prescribed by the board of directors.

1891, c. 139, s. 5.

4158. Rules and regulations; admission of pupils. The board of directors shall make rules and regulations for the government of the corporation and the admission of pupils; but shall not discriminate against any county in the number of pupils allowed it, in case all applicants can not be accommodated. Each county shall have representation in proportion to its white school population, if it desires it; and, should any county fail to avail itself of its proportionate number, the board of directors may recognize applicants from counties which already have their proportionate representation.

1891, c. 139, s. 4.

4159. Session of thirty weeks; teachers to hold institutes. The college shall be in regular session for at least thirty weeks per

annum, and the instructors, in addition to their duties at the college, shall be required to hold institutes in the various counties of the state, under such regulations as may be made by law, and without other compensation than their regular salaries at the college.

1891, c. 139, s. 6; 1901, c. 535, c. 4, s. 26.

4160. Certificates to pupils, when and how granted. Upon the completion of the prescribed course of study at the college by any pupil, the board of directors and the faculty of the college shall grant a certificate to that effect, and it shall be the duty of the faculty to extend the influence and usefulness of the college as far as possible to persons who are unable to avail themselves of its advantages as resident students, having respect to the claims of each county in the state. To this end the faculty shall arrange a course of reading and study which may be pursued by others than those resident at the college. Upon application of any white person for examination upon this course at the college or at the county institutes provided for by law, an examination shall be held, and, if such examination proves satisfactory, the regular certificate of the board and faculty shall be granted.

1891, c. 139, ss. 6, 11; 1901, c. 535, c. 4, s. 26.

4161. Matron's hall. For the benefit of those who may desire to avail themselves of it a matron's hall shall be established at which board shall be furnished at actual cost.

1891, c. 139, s. 12.

4162. Appropriation. For the support and maintenance of the state normal and industrial college at Greensboro, an annual appropriation of forty thousand dollars is hereby made.

1903, c. 402, ss. 10, 15.

XXVI. THE UNIVERSITY OF NORTH CAROLINA.

4163. Constitutional provisions. The general assembly shall have power to provide for the election of trustees of the University of North Carolina, in whom, when chosen, shall be vested all the privileges, rights, franchises and endowments thereof, in anywise granted to or conferred upon the trustees of such university; and the general assembly may make such provisions, laws and regulations, from time to time, as may be necessary and expedient for the maintenance and management of such university. The general assembly shall provide that the benefits of the university, as far as practicable, be extended to the youth of the state free of expense for tuition; also that all the property which has heretofore accrued to the state, or shall hereafter accrue, from escheats, unclaimed divi-

dends, or distributive shares of the estates of deceased persons, shall be appropriated to the use of the university, and the general assembly shall establish and maintain, in connection with the university, a department of agriculture, of mechanics, of mining, and of normal instruction.

Const., Art. IX, ss. 6, 7, 14.

4164. Incorporated. Whereas, in all well regulated governments it is the indispensable duty of every legislature to consult the happiness of a rising generation, and endeavor to fit them for an honorable discharge of the social duties of life, by paying the strictest attention to their education; and whereas, a university supported by permanent funds, and well endowed, would have the most direct tendency to answer the above purpose: The trustees of the university shall be a body politic and corporate, to be known and distinguished by the name of The University of North Carolina, and by that name shall have perpetual succession and a common seal; and by that name shall be able and capable in law to take, demand, receive and possess all moneys, goods and chattels that shall be given for the use of the university, and to apply the same according to the will of the donors; and by gift, purchase or devise to take, have, receive, possess, enjoy and retain forever, any and all real and personal estate and funds, of whatsoever kind, nature or quality the same may be, in special trust and confidence, that the same, or the profits thereof, shall be applied to and for the use and purpose of establishing and endowing the university, and shall have power to receive donations from any source whatever, to be exclusively devoted to the purposes of the maintenance of the university, or according to the terms of donation.

Code, ss. 2610, 2630; R. S., vol. 2, p. 424; 1789, c. 305, s. 1; 1874-5, c. 236, s. 2.

4165. Additional corporate powers. The corporation, by its corporate name, shall be able and capable in law to bargain, sell, grant, alien or dispose of and convey and assure to the purchasers any and all such real and personal estate and funds as it may lawfully acquire when the condition of the grant to it or the will of the devisor does not forbid it; and shall be able and capable in law to sue and be sued in all courts whatsoever; and shall have power to open and receive subscriptions, and in general may do all such things as are usually done by bodies corporate and politic, or such as may be necessary for the promotion of learning and virtue.

Code, s. 2611; R. S., vol. 2, p. 425; 1789, c. 305, s. 2.

4166. Tax exemption. The lands and other property belonging to the corporation shall be exempt from all kinds of public taxation.

Const., Art. VI, s. 5; Code, s. 2614; R. S., vol. 2, p. 428; 1789, c. 306, s. 3.

4167. Governor ex officio president; president pro tem. The governor shall preside at all the meetings of the board at which he may be present; and if, by indisposition or other cause, the governor shall be absent from any meeting of the board, he may appoint, in writing, some other person, being a trustee, to act in his stead for the time being, which appointee shall preside accordingly; and if at any time the governor shall be absent from the meeting of the board and shall not have appointed some trustee to act in his stead it shall be lawful for the board to appoint some one of their number to preside for the time being.

Code, s. 2615; R. S., vol. 2, p. 432; 1805, c. 678.

4168. President and faculty; rules and discipline; degrees. The trustees shall have the power of appointing a president of the University of North Carolina and such professors, tutors and other officers as to them shall appear necessary and proper, whom they may remove for misbehavior, inability or neglect of duty; and they shall have the power to make all such laws and regulations for the government of the university and preservation of order and good morals therein as are usually made in such seminaries, and as to them may appear necessary, provided the same are not contrary to the inalienable liberty of a citizen, or to the laws of the state. And the faculty of the university, that is to say, the president and professors, by and with consent of the trustees, shall have the power of conferring all such degrees or marks of literary distinction as are usually conferred by colleges or universities.

Code, s. 2613; R. S., vol. 2, p. 427; 1789, c. 305, s. 7.

4169. Treasurer, duties and bond of. The trustees shall elect and commission some person to be treasurer for the corporation during the term of two years, and until his successor shall be elected and qualified; which treasurer shall enter into bond, with sufficient sureties, payable to the state of North Carolina, in the sum of not less than ten thousand dollars, conditioned for the faithful discharge of his office, and the trust reposed in him, and that all moneys and chattels belonging to the corporation that shall be in his hands at the expiration of his office shall then be immediately paid and delivered into the hands of the succeeding treasurer; and every treasurer shall receive all moneys, donations, gifts, bequests, and charities whatsoever that may belong or accrue to the corporation during his office, and at the expiration thereof shall account with the trustees for the same, and the same pay and deliver over to the succeeding treasurer; and on his neglect or refusal so to pay and deliver the same, proceedings may be had against him, as is or may

be provided for the recovery of moneys from sheriffs or other persons chargeable with public moneys.

Code, s. 2612; R. S., vol. 2, p. 426; 1789, c. 305, s. 4.

4170. Vacancies in offices of secretary and treasurer. In case the office of secretary or treasurer of the corporation shall be vacant from any cause whatever, in the recess of the board of trustees, the president shall appoint a suitable person to fill the same until the annual meeting of the board of trustees, at which time the board shall elect a proper person to fill such vacancy.

Code, s. 2617; R. S., vol. 2, p. 433.

4171. Executive committee. The trustees shall have power to appoint from their own number an executive committee which shall be clothed with such powers as the trustees may confer.

Code, s. 2624; 1873-4, c. 64, s. 5.

4172. Trustees, number, election, terms and rights of. There shall be eighty trustees of the University of North Carolina whose term of office shall be eight years, and who shall be elected by joint ballot of both houses of the general assembly as and when the terms of the present incumbents respectively expire. Sixteen of such trustees shall be selected from points conveniently accessible to the seat of government and the university. In such eighty trustees shall be vested all the rights, privileges, franchises and endowments in anywise granted to or conferred upon the trustees of the University of North Carolina.

Const., Art. IX, s. 6; Code, ss. 2620, 2625; 1873-4, c. 64; 1876-7, c. 121, ss. 1, 2; 1883, c. 124, ss. 1, 2.

4173. Meeting of trustees, annual and special; quorum. There shall be an annual meeting of the board of trustees in the city of Raleigh, which meeting shall be held during the session of the general assembly the years that body convenes. There shall also be held another annual meeting at such time and place as the governor may appoint. At any of the annual meetings of the board any number of trustees, not less than ten, shall constitute a quorum and be competent to exercise full power and authority to do the business of the corporation; and the board or the governor shall have power to appoint special meetings of the trustees at such time and place as, in their opinion, the interest of the corporation may require; but no special meeting shall have power to revoke or alter any order, resolution or vote of an annual meeting; and the board of trustees at the annual meeting may, by resolution, vote or ordinance, from time to time, as to it shall seem meet, limit, control and restrain the business to be transacted, and the power to be possessed and exercised by special meetings of the board, called according to law, and

the powers of such special meetings shall be limited, controlled and restrained accordingly. And every order, vote, resolution or other act done, made or adopted by any special meeting, contrary to any order, resolution, vote or ordinance of the board, at an annual meeting shall be absolutely, to all intents and purposes, null and void.

Code, ss. 2616, 2618, 2621; R. S., vol. 2, p. 433; 1873-4, c. 64, s. 2.

4174. Removal of trustees from office. The board of trustees shall have power to vacate the appointment and remove a trustee for improper conduct, stating the cause of such removal on the journal; but this shall not be done except at an annual meeting of the board, and there shall be present at the doing thereof at least twenty of the members of the board.

Code, s. 2619; R. S., vol. 2, p. 432.

4175. Vacancy by neglect of duty. Whenever a trustee shall fail to be present for four successive years at the regular meetings of the board, his place as such trustee shall be deemed vacant, and the general assembly, upon being notified thereof by the secretary, shall proceed to fill the same, as is now provided in case of other vacancies.

1891, c. 98; 1805, c. 678, s. 2.

4176. Vacancies, how filled. Whenever any vacancy shall happen in the board of trustees it shall be the duty of the secretary of the board of trustees to communicate to the general assembly the existence of such vacancy, and thereupon there shall be elected by joint ballot of both houses a suitable person to fill the same.

Code, s. 2622; 1873-4, c. 64, s. 3; 1804, c. 647.

4177. Rules and regulations. The trustees shall have power to make such rules and regulations for the management of the university as they may deem necessary and expedient, not inconsistent with the constitution and laws of the state.

Code, s. 2623; 1873-4, c. 64, s. 4.

4178. Normal department. It shall be the duty of the trustees to use the appropriation hereinafter made, as far as may be practicable, in carrying into effect sections seven and fourteen of article nine of the constitution; and particularly they shall provide such advanced instruction as may enable their students to learn the art of teaching in the university normal department and to be well qualified to become teachers of the schools of the state.

Code, s. 2639; 1881, c. 141, s. 2; 1887, c. 233, s. 3.

4179. Tuition fees; free tuition. The trustees are hereby instructed to reduce tuition at the university to sixty dollars per

annum, to be paid in cash or by good note, and are further instructed to charge and collect from each student at the beginning of each term an amount sufficient to pay room rent, servant's hire, etc., for the term; but no young man of good moral character shall be denied admission because of his inability to pay cash or give a good note. The trustees are further instructed to adopt such rules for the admission of ministers' sons, candidates for the ministry, young men afflicted with bodily infirmity, and students preparing themselves for the purpose of teaching, as are adopted by other colleges throughout the state. All students in the normal department shall receive free tuition in this department if they agree in writing to teach for one year after leaving the university; but they shall pay full tuition in other departments. All other students shall be required to give their notes with the understanding that should they become able they shall pay the balance due the university at the time of their graduation in full.

Code, ss. 2633, 2634, 2635; 1885, c. 143, ss. 2, 3; 1887, c. 233, ss. 1, 2, 3.

4180. Reports to the general assembly. It shall be the duty of the trustees to cause annual reports to be made to the governor, to be transmitted by him to the general assembly, showing the receipts of the corporation from all sources, and the expenditures thereof, with the objects for which such expenditures were made.

1885, c. 143, s. 4.

4181. Intoxicating liquors, sale of, prohibited; electioneering, treating, etc. Any license granted to retail spirituous or malt liquors, wines or cordials at Chapel Hill, or within four miles thereof, shall be void; and no person shall sell or deliver, or directly or indirectly receive any compensation for any spirituous liquors, bitters or any intoxicating drinks within four miles of the corporate limits of Chapel Hill, Orange county, or within that village. No person shall erect, keep, maintain, or have at Chapel Hill, or within four miles thereof, any tippling house, establishment, or place, for sale of wines, cordials, spirituous or malt liquors. It shall be unlawful for any person to sell or deliver, or offer to sell or deliver, or directly or indirectly receive any compensation for, any spirituous or malt liquors, bitters or any intoxicating drinks, for the purpose of being used, or with knowledge that the same will be used at Chapel Hill, or within four miles thereof, by any student of the university, without permission in writing from the president of the university, or some other member of its faculty. No person, at or within four miles of Chapel Hill, shall give or furnish any electioneering treat or entertainment.

Code, ss. 2640, 2641, 2642, 2643; R. C., c. 113, ss. 1-4; R. S., c. 116, ss. 1, 2; 1827, c. 4; 1879, c. 232, ss. 1, 2, 3; 1880 (sp. sess.), c. 45; 1893, cc. 398, 449.

4182. Billiard tables; games of chance or skill. No person shall set up, keep or maintain at Chapel Hill, or within five miles thereof, any public billiard table or other public table of any kind at which games of chance or skill, by whatever name called, may be played. Nor shall he keep, within such five miles, any house, place, ten-pin alley, or any implement, at which, or by means of which, any game of chance or hazard may be played.

Code, s. 2644; R. C., c. 113, s. 5; R. S., c. 116, s. 4; 1794, c. 429.

4183. Theatrical and other shows, entertainments, etc. No person, without permission in writing obtained therefor from the president of the university, or some other member of its faculty seven days beforehand, shall exhibit at Chapel Hill, or within five miles thereof, any theatrical, sleight-of-hand or equestrian performances, or any dramatic recitations or representations, or any rope or wire-dancing, natural or artificial curiosities, or any concert, serenade, or performance in music, singing or dancing.

Code, s. 2645; R. C., c. 113, s. 6; R. S., c. 116, s. 3; 1824, c. 1252.

4184. Misdemeanor to violate three preceding sections; jurisdiction; testimony of participants. Any person violating any of the three next preceding sections shall be guilty of a misdemeanor, and fined not less than ten dollars nor more than fifty dollars, or be imprisoned not less than ten days nor more than thirty days; and if the offender is not brought to trial before some justice of the peace within twelve months after the commission of the offense, the superior court in term for the county in which the offense was committed may take jurisdiction of the same and punish the offender at the discretion of the court. No person shall be excused or incapacitated from testifying touching the violation of any of the three next preceding sections by reason of his having been a participant in the offenses; but the testimony of such person shall not be used against him in any criminal prosecution on account of such participation.

Code, s. 2646; R. C., c. 113, s. 7; 1879, c. 232, s. 3.

4185. Certain contracts of students void and incapable of ratification. Every contract or agreement by any student of the university, being then a minor, with any shopkeeper, merchant, trader, or other person, upon the sale of any wine, cordial, spirituous or malt liquor, or of any goods, wares, or merchandise, or any article of trade, or with the keeper of any livery stable, shall be void, unless the same, if made at or within two miles of Chapel Hill, be made under the written permission of the president of the university or some other member of its faculty; or, if made at a greater distance from Chapel Hill, under the written consent of the per-

son who may have the control and authority over such student. Every contract made with a student of the university contrary to this section shall be void, and may be avoided on account of any of the matters herein contained by answer denying the same. And on the trial, if it appear that the defendant was at the time of the alleged contract a student of the university, it shall be presumed that he was at the making thereof a minor. Every such contract shall be incapable of being confirmed; and any promise or obligation to perform the same, given by such student after his arrival at full age, shall be void.

Code, ss. 2647, 2648, 2649; R. C., c. 113, ss. 9, 10.

4186. Endowed with escheats. All real estate which has heretofore accrued to the state, or shall hereafter accrue from escheats, shall be vested in the University of North Carolina, and shall be appropriated to the use of that corporation.

Const., Art. IX, s. 7; Code, s. 2626; R. C., c. 113, s. 11; 1789, c. 306, s. 2.

4187. Unclaimed assets and distributive shares in decedents' estates. All sums of money or other estate of whatever kind, which shall remain in the hands of any executor, administrator or collector for five years after his qualification, unrecovered or unclaimed by suit, by creditors, next of kin or others entitled thereto, shall be paid by the executor, administrator or collector, to the University of North Carolina; and that corporation is authorized to demand, sue for, recover, and collect such moneys or other estate of whatever kind, and hold the same without liability for profit or interest, until a just claim therefor shall be preferred by creditors, next of kin or others entitled thereto; and if no such claim shall be preferred within ten years after such money or other estate be received by such corporation, then the same shall be held by it absolutely.

Const., Art. IX, s. 7; Code, ss. 2627, 1504; 1868-9, c. 113, s. 76; R. S., c. 46, s. 20; 1784, c. 205, s. 2; 1809, c. 763, s. 1.

4188. Other unclaimed personalty. Personal property of every kind, including dividends of corporations, or of joint-stock companies, or associations, choses in action, and sums of money in the hands of any person, which shall not be recovered or claimed by the parties entitled thereto for five years after the same shall become due and payable, shall be deemed derelict property, and shall be paid to the University of North Carolina and held by it without liability for profit or interest until a just claim therefor shall be preferred by the parties entitled thereto; and if no such claim shall be preferred within ten years after such property or dividend shall be received by it, then the same shall be held by it absolutely.

Code, ss. 2629, 2628.

4189. All receipts to be applied to maintenance. All receipts heretofore had or hereafter to be had from dividends, escheated property, derelict property, money or other property, in the hands of executors, administrators or collectors, and from any source whatever under authority of the state, and all interest thereon, shall be exclusively devoted by the trustees to the maintenance of the university.

Code, s. 2630; 1874-5, c. 236, s. 2.

4190. Appropriation. The sum of thirty-seven thousand and five hundred dollars is annually appropriated for the support and maintenance of the University of North Carolina, and all other appropriations heretofore made are hereby revoked.

1903, c. 402, s. 8.

XXVII. DEAD BODIES FOR MEDICAL SCHOOLS.

4191. Board for distribution. The professors of anatomy of the several medical schools of the state shall be a board for the distribution of dead human bodies for the purpose of promoting the study of anatomy in this state, and shall have power to make proper rules for its government and the discharge of its functions under this subchapter.

1903, c. 666, s. 1.

4192. What bodies furnished. All officers, agents or servants of the state of North Carolina, or of any county or town having charge or control of the dead body of any person who at the time of death was under the sentence of death, or imprisonment at hard labor for the violation of the criminal laws of the state, shall, upon the request of the board or its authorized agent, deliver such dead body to any one designated by the board for the purpose aforesaid: Provided, such body be not claimed by any relative within the second degree of consanguinity, or by the husband or wife of such deceased person: Provided further, that the body of a Confederate soldier or of the wife of a Confederate soldier shall be excepted from the provisions of this subchapter, and that the body of no white person shall be delivered to any school for the colored race: Provided, that this chapter shall only apply to persons who have been convicted of and are serving a sentence for a felony.

1903, c. 666, s. 2.

4193. How distributed. The bodies obtained under this subchapter shall be distributed among the several medical schools in proportion to the number of students studying anatomy in said schools.

1903, c. 666, s. 3.

4194. Embalmed. The bodies obtained under this subchapter shall be embalmed before being used for the purposes of dissection. 1903, c. 666, s. 4.

4195. Expenses, how paid. All expenses for the delivery, distribution and embalming of such dead bodies shall be borne by the medical school receiving same, and in no case shall the state or any county or town be liable therefor. 1903, c. 666, s. 5.

NOTE. Failure of officer to discharge duty misdemeanor, see Crimes. Embalmers entitled to use of, see s. 4293.

CHAPTER 93.

ELECTIONS.

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I. DEFINITION.

4196. Political party. The words "political party," as used in this chapter, shall be construed to mean every such political party or organization whose candidate for governor received as many as fifty thousand votes in the election held August second, one thousand nine hundred.

1901, c. 89, s. 85

II. WHEN HELD.

4197. State officers. On Tuesday next after the first Monday in November in the year of our Lord one thousand nine hundred and four, and every four years thereafter, an election shall be held

in the several election precincts in each county for the following officers: Governor, lieutenant governor, secretary of state, auditor, treasurer, superintendent of public instruction, attorney general, and other state officers whose terms last for four years, and at said time and every two years thereafter, elections shall be held in the several election precincts in each county for other state officers whose election is not otherwise provided for by law.

1901, c. 89, s. 3.

4198. For presidential electors. On the Tuesday next after the first Monday in the month of November in the year of our Lord one thousand nine hundred and eight, and every four years thereafter, or on such days as the Congress of the United States shall have directed, a poll shall be opened in each of the precincts of the state for the election of electors of president and vice-president of the United States, the number of whom is to be equal to the number of senators and representatives in Congress to which this state may be entitled, and the persons shall be electors for the state as aforesaid, and the voting place in each ward or precinct shall be the same as in elections for members of the general assembly, unless changed by the county board of elections.

1901, c. 89, s. 77.

4199. For president and vice-president, by electors. The persons elected and appointed as electors of the president and vice-president of the United States shall assemble on the second Monday of January, in the capitol at the city of Raleigh, and then and there give their votes on behalf of the state of North Carolina for president and vice-president of the United States, and proceed in relation thereto in all things conformably to the constitution of the United States and the acts of Congress in that behalf.

1901, c. 89, s. 82.

4200. County officers, solicitors and congressmen. On the Tuesday next after the first Monday in November in the year of our Lord one thousand nine hundred and six, and every two years thereafter, an election shall be held in the several election precincts in each county for members of Congress in the several districts, members of the general assembly for their respective counties and districts, a register of deeds, county surveyor, coroner, sheriff, county commissioners, where the county commissioners are elected by the people, and in such counties as have one, a county treasurer, and other officers, whose terms are for two years. And on the said first Tuesday after the first Monday in November in the year of our Lord one thousand nine hundred and six, and every four years thereafter, an election shall be held in each county for clerk of the

superior court, and at such times an election shall be held in the several judicial districts for the office of solicitor.

1901, c. 89, s. 1.

Note. See also, s. 4271.

4201. Township offices. On the first Tuesday after the first Monday in November in the year of our Lord one thousand nine hundred and six, and every two years thereafter, an election shall be held in each township for the office of constable, and also for justices of the peace in such counties as elect them by a vote of the people, and all other officers elected by a vote of the township.

1901, c. 89, s. 2.

4202. Special election for members of general assembly. When a vacancy occurs in the general assembly by death, resignation or otherwise, it shall be the duty of the chairman of the county board of elections, or of the sheriff of the county in which the late member resided, provided the general assembly shall not be in session, to notify the governor of such vacancy, and in case the general assembly shall not be in session when such vacancy occurs, it shall be the duty of the presiding officer in the house in which the vacancy occurs to notify the governor of the same, who shall thereupon issue a writ of election to the chairman or chairmen of the district or county represented by the late member, said election to be held at such time as the governor may designate, and in such manner as may be prescribed by law.

1901, c. 89, s. 74

4203. Vacancies in state offices. Whenever any vacancies shall exist by reason of death, resignation or otherwise, in any of the following offices, to-wit: Secretary of state, auditor, treasurer, superintendent of public instruction, attorney general, solicitor, justices of the supreme court, judges of the superior court, or any other state officer elected by the people, the same shall be filled by elections, to be held in the manner and places and under the same regulations and rules as prescribed for general elections, at the next regular election for members of the general assembly, which shall occur more than thirty days after such vacancy, except as otherwise provided for in the constitution.

1901, c. 89, ss. 4, 73.

III. STATE BOARD.

4204. Appointed by the governor; term of office. There shall be a state board of elections, consisting of five electors, whose terms of office shall begin on the first day of June, one thousand nine hundred and six, and continue for two years and until their successors are appointed and qualified. The governor shall appoint the mem-

bers of this board, and not more than three of them shall be of the same political party. Their successors shall likewise be appointed by the governor, and their term of office shall continue for two years and until their successors are elected and qualified.

1901, c. 89, s. 5.

4205. When to meet; vacancies, how filled. The state board of elections shall meet in Raleigh on the first Monday in July in the year nineteen hundred and six and shall organize by electing one of its members chairman and another secretary, and the chairman of said board may call such meetings as may be necessary to discharge the duties and functions imposed upon said board by this chapter at such times and places as he may appoint. Any vacancy occurring in the said board shall be filled by the governor, and the person so appointed shall fill the unexpired term.

1901, c. 89, s. 7.

4206. Called meetings; authority; quorum. The chairman of the state board of elections shall call a meeting of the board upon the application in writing of any two members thereof, or if there be no chairman, or the chairman does not call such meeting, any three members of the said board shall have power to call a meeting of the board. And any duty imposed or power conferred by this chapter may be performed or exercised at such meeting, although the time for performing or exercising the same prescribed by this chapter may have expired. And if at any meeting any member of said board shall fail to attend, and by reason thereof there is a failure of a quorum, the members attending shall adjourn from day to day, for not more than two days, at the end of which time, if there should be no quorum, the governor may remove the members so failing to attend summarily and appoint their successors.

1901, c. 89, s. 7.

IV. COUNTY BOARD.

4207. Consists of three members; when appointed; qualification. There shall be in every county in the state a county board of elections to consist of three persons of good moral character, who are electors in the county in which they are to act, who shall be appointed by the state board of elections at least three months before the next general state election, and biennially thereafter, and whose terms of office shall continue for two years from the time of their appointment and until their successors are appointed and qualified, unless sooner removed therefrom as hereinafter provided. Not more than two members of the county board of elections shall belong to the same political party, and the state chairman of each political party shall have the right to recommend three electors in each county,

and it shall be the duty of the state board of elections to appoint said county board from the names thus recommended: Provided, that said chairmen shall recommend such persons on or before the first Monday of August of each year in which appointments are to be made.

1901, c. 89, s. 6.

4208. When to meet. It shall be the duty of the county board of elections to meet in their respective counties not later than the first Monday in September, in the year of our Lord one thousand nine hundred and six, and biennially thereafter, and, a majority being present, they shall organize by electing one of its members chairman and another secretary, and it may meet at such other times and places as the chairman of said board, or any two members thereof, may direct to divide their respective counties into election precincts and fix the polling places.

1901, c. 89, s. 11.

4209. Polling places created, altered or changed. The county board of elections may, in their respective counties, adopt the present election precincts, or they may establish new precincts, but the election precincts and polling places as now fixed in each county shall remain as they now are until altered. In the case of the alteration of the election precincts or polling places therein, they shall give twenty days' notice thereof, in some public journal, or in lieu thereof, in three public places in such county, and at the courthouse door. And the county board of elections shall have power from time to time, after dividing their counties into election precincts, to establish, alter, discontinue, or create such new election precincts in their respective counties as they may deem expedient, giving twenty days' notice thereof, by advertising in some public journal, or in lieu thereof, in three public places in such county, and at the courthouse door. If any polling place is changed in any precinct, like advertisement of such change shall be given. And there shall be at least one polling place in every township, conveniently located for a majority of the voters.

1901, c. 89, s. 11.

4210. Furnished with necessary books and stationery. The county board of elections shall make their requisition upon the secretary of state for such books, blanks, and stationery as may be necessary for the registration of voters and holding elections in their respective counties. And if the secretary of state shall fail to provide said books, blanks or stationery, it shall be the duty of the said board to provide the same at the expense of the state.

1901, c. 89, s. 11.

4211. Appoints registrars and judges of election. The county board of elections in each county shall appoint all registrars and judges of election in their respective counties, and fill vacancies except as herein provided.

1901, c. 89, s. 8.

4212. Appoint registrars; may remove, and appoint others. The county board of elections of the several counties shall select, on or before the first Monday in September in the year of our Lord one thousand nine hundred and six, and biennially thereafter, one person of good repute and standing, who shall act as registrar for each township, ward or precinct. The said county board of elections shall make publication of the names of the persons so selected at the courthouse door immediately after such appointment and shall cause a notice to be served upon said persons by the sheriff. If any registrar fail to perform the duties of his office, and for that or for any other cause be removed from office, or shall die or resign, or if there shall for any other cause be a vacancy in said office, the chairman of the county board of elections may appoint another in his place. No person who is a candidate shall be a registrar or judge of election.

1901, c. 89, s. 16.

4213. How vacancies filled. The state board of elections shall have power to remove from office any member of the county board of elections for incompetency, failure of duty, or for any other satisfactory cause. When any member of the county board of elections shall be removed by the state board of elections, the vacancy thus created shall be filled by the state board of elections; the vacancy occurring in the county board of elections for other cause than removal by the state board of elections shall be filled by the chairman of the state board of elections, but the person so appointed to fill any vacancy shall be of the same political party as his predecessor.

1901, c. 89, s. 9.

4214. Removal of registrars and judges of election. The county board of elections shall have power to remove any registrar or judge of election appointed by it for incompetency, failure to qualify within the time prescribed by law, failure to discharge the duties of office after qualifying, or for any other satisfactory cause.

1901, c. 89, s. 10.

4215. Chairman transmit returns by mail, when. The chairman of the county board of elections, or other returning officer of each county, shall, on or before the fifth day after the election, transmit by mail, in a registered letter or otherwise, to the speaker of the

house of representatives, a separate statement of the votes taken in his county for each of the state officers, to-wit: Governor, lieutenant governor, secretary of state, auditor, treasurer, superintendent of public instruction, and attorney general, and other state officers; which statement in each case shall be in the following or some similar form, viz.:

State of North Carolina, County.

I,, the chairman of the county board of elections of county, do hereby certify that at the election held in the said county to elect a governor (or other officers, as the case may be), at the places appointed by law for holding elections for said county, on the day of, A. D. one thousand nine hundred and, votes were given for, and votes for Given under my hand, this day of, nineteen hundred and

.....
Chairman of the County Board of Elections.

If such statements are transmitted by mail, they shall be directed in sealed packets to the speaker of the house of representatives, in care of the secretary of state, and, if by messengers, they shall be sent direct to the speaker of the house of representatives, sealed as aforesaid: Provided, that no messenger bringing said statements or any other abstracts or election returns shall receive compensation therefor. The chairman of the county board of elections, or other returning officers, failing or neglecting to perform the duties required in this section, shall forfeit and pay two thousand dollars, to be recovered in the superior court of his county by any person who shall sue for the same, and shall be guilty of a misdemeanor, and imprisoned at hard labor in the state's prison for twelve months: Provided further, that the chairman of the county board of elections of Carteret, Hyde and Dare shall have until the eleventh day after the election to comply with this section.

1901, c. 89, s. 42.

4216. Chairman to furnish county officers certificate of election. The chairman of the county board of elections of each county shall furnish, within ten days, the member or members elected to the house of representatives and to the senate, when the district is not composed of more than one county, a certificate of election under his hand and seal. He shall also immediately notify all persons elected to the county offices to meet at the courthouse on the first Monday in the ensuing December to be qualified.

1901, c. 89, s. 41.

4217. Where chairmen meet in senatorial districts. The chairman of the county boards of elections in the various senatorial districts, composed of more than one county, after receiving the returns from the board of county canvassers, shall meet on the ninth day after election at the following places in their respective districts for

the purpose of comparing polls: In the first district, at Hertford, in the county of Perquimans; in the second district, at Plymouth, in the county of Washington; in the third district, at Roxobel, in the county of Bertie; in the seventh district, at Nashville, in the county of Nash; in the eighth district, at New Bern, in the county of Craven; in the tenth district, at Wallace, in the county of Duplin; in the eleventh district, at Wilmington, in the county of New Hanover; in the twelfth district, at Clarkton, in the county of Bladen; in the fifteenth district, at Dunn, in the county of Harnett; in the seventeenth district, at Ridgeway, in the county of Warren; in the eighteenth district, at Berea, in the county of Granville; in the nineteenth district, at Hillsboro, in the county of Orange; in the twenty-second district, at Aberdeen, in the county of Moore; in the twenty-third district, at Ashboro, in the county of Randolph; in the twenty-fourth district, at Norwood, in the county of Stanly; in the twenty-fifth district, at Charlotte, in the county of Mecklenburg; in the twenty-eighth district, at Pilot Mountain, in the county of Surry; in the twenty-ninth district, at Yadkinville, in the county of Yadkin; in the thirty-first district, at Maiden, in the county of Catawba; in the thirty-third district, at Rutherfordton, in the county of Rutherford; in the thirty-fourth district, at Morganton, in the county of Burke; in the thirty-fifth district, at Jefferson, in the county of Ashe; in the thirty-sixth district, at Burnsville, in the county of Yancey; in the thirty-eighth district, at Sylva, in the county of Jackson; in the thirty-ninth district, at Murphy, in the county of Cherokee.

1901, c. 89, s. 40.

V. QUALIFICATION OF VOTERS.

4218. Who may not vote. The following classes of persons shall not be allowed to register or vote in this state, to-wit: First, persons under twenty-one years of age; second, idiots and lunatics; third, persons who have been convicted or confessed their guilt in open court, upon indictment, of any crime, the punishment of which is now, or may hereafter be, imprisonment in the state's prison, unless such person shall have been restored to citizenship in the manner prescribed by law.

1901, c. 89, s. 14.

4219. Who may vote. Subject to the exceptions contained in the preceding section, every male person who has been naturalized, twenty-one years of age, a citizen of the state of North Carolina, who shall have resided two years in the state and six months in the county, and four months in the precinct, ward or election district in which he offers to vote next preceding the election, shall, if other-

wise qualified, as prescribed in this chapter, be a qualified elector in the precinct, ward, or township in which he resides: Provided, that removal from one ward, precinct or other election district to another in the same county shall not operate to deprive any person of the right to vote in the precinct, ward or other election district from which he has removed until four months after such removal, and all electors shall register and vote in the election precinct of their residence, except in case of removal, as above specified, in which case such person shall register in the township, ward or precinct whence he has removed. The residence of a married man shall be where his family resides, and that of a single man where he sleeps. And it shall be the duty of the registrar or judge of election, when requested by any bystander, to swear any person offering to register as to his residence, and to have placed in writing opposite his name the word "Sworn."

1901, c. 89, s. 15.

4220. Voter must be registered. Only such persons as are registered shall be entitled to vote in any election held under this chapter.

1901, c. 89, s. 12.

VI. REGISTRATION OF VOTERS.

4221. Voter must be able to read and write; exceptions. Every person presenting himself for registration shall be able to read and write any section of the constitution in the English language, and shall show to the satisfaction of the registrar his ability to read and write any such section when he applies for registration, and before he is registered: Provided, however, that no male person who was, on January first, one thousand eight hundred and sixty-seven, or at any time prior thereto, entitled to vote under the laws of any state in the United States where he then resided, and no lineal descendant of such person, shall be denied the right to register and vote at any election in this state by reason of his failure to possess the educational qualification aforesaid: Provided, that it shall be made to appear to the registrar that he or his ancestor was entitled to vote prior to January first, one thousand eight hundred and sixty-seven, in any state in the United States, as prescribed by article six, section four, of the constitution, and such person, if otherwise qualified, shall be registered, and no registrar shall have the right to inquire whether such person can read or write.

1901, c. 89, s. 12.

4222. Qualifications as to residence for voters; oath to be taken. In all cases the applicant for registration shall be sworn before being registered, and shall state as accurately as possible his name,

age, place of birth, place of residence, stating ward if he resides in an incorporated town or city, and any other questions which may be material upon the question of identity and qualification of the said applicant to be admitted to registration. The registrar, if in doubt as to the right of the applicant to register, may require other evidence satisfactory to him as to the qualification of the applicant. And thereupon if the applicant shall be found to be duly qualified and entitled to be registered as an elector, the registrar shall register the applicant, giving his race opposite his name, and shall record his name, age, residence, place of birth and the township, county or state from whence he has removed, in the event of a removal, in the appropriate column of the registration books, and the registration books containing the said record shall be evidence against the applicant in any court of law in a proceeding for false or fraudulent registration. Every person qualified as an elector shall take the following oath:

I do solemnly swear (or affirm) that I will support the constitution of the United States, and the constitution of the state of North Carolina, not inconsistent therewith; that I have been a resident of the state of North Carolina for two years, and of the county of for six months, and of township, precinct or ward for four months; or that I was a resident of township (ward or precinct) on the day of (being four months preceding the election) and removed therefrom to township (ward or precinct), where I have since resided; that I am twenty-one years of age; that I have not registered for this election in any other ward or precinct or township. So help me, God.

And thereupon the said person, if otherwise qualified, shall be entitled to register.

1901, c. 89, s. 12.

4223. Poll tax must be paid before person can vote; receipt exhibited. No person shall be entitled to vote unless he shall have paid his poll tax for the previous year, on or before the first day of May of the year in which he offers to vote, as prescribed under article five, section one, of the constitution. Every person liable for such poll tax shall, before being allowed to vote, exhibit to the registrar his poll tax receipt for the previous year, issued under the hand of the sheriff or tax collector of the county or township where he then resided; and unless such poll tax receipt shall bear date on or before the first day of May of the year in which he offers to vote, such person shall not be allowed to vote: Provided, that in lieu of such poll tax receipt it shall be competent for the registrar and judges of election to allow such person to vote upon his taking and subscribing the following oath:

North Carolina, County.

I do solemnly swear (or affirm) that on or before the first day of May of this year I paid my poll tax for the previous year, as required by article six, section four, of the constitution of North Carolina.

Sworn to and subscribed before me, this the day of, 19..

.....
Registrar.

Which oath shall bear date on the day on which such election is held: Provided further, that if not satisfied, the registrar and judges of election may require other and further proof of such payment of poll tax.

1901, c. 89, s. 13.

4224. Who may vote without paying poll tax. No person who has become of age since the first day of June of the previous year, or who was fifty years of age or over on the first day of June of the previous year, shall be required to produce any poll tax receipt, or take the oath as to payment of poll tax hereinbefore provided, in order to vote. No person who has been exempted by the commissioners of the county wherein he resides on account of poverty or infirmity shall be required to produce any poll tax receipt or to take said oath as to payment of poll tax in order to vote. No person shall be allowed to vote on any exemption granted by the board of commissioners unless the same shall have been granted on or before the first day of May of the year in which he offers to vote and bears date on or before said date.

1901, c. 89, s. 13; 1903, c. 479.

4225. When person can register on election day. No registration shall be allowed on the day of election, but if any person shall give satisfactory evidence to the registrar and judges of election that he has become qualified to register and vote after the time for registration has expired, he shall be allowed to register on that date.

1901, c. 89, s. 21.

4226. Registration books kept open, when; registrar to take oath. The registrar of each township, ward or precinct shall be furnished with a registration book prepared as hereinbefore provided, and it shall be his duty, between the hours of nine o'clock a. m. and sunset, on each day (Sunday excepted) for twenty days preceding the day for closing the registration books, as hereinafter provided, to keep open said books for the registration of any electors residing within such township, ward or precinct and entitled to registration. The said books shall be closed for registration at sunset on the second Saturday before each election. On each Saturday during the period of registration, the registrar shall attend with his registration books at the polling place of his precinct or ward for the

registration of voters. Every registrar, before entering upon the discharge of the duties of his office, shall take an oath before a justice of the peace or some other person authorized to administer oaths, that he will support the constitution of the United States and the constitution of North Carolina not inconsistent therewith, and that he will honestly and impartially discharge the duties of registrar, and honestly and fairly conduct such election.

1901, c. 89, s. 18.

4227. Registration books deposited with register of deeds.

Immediately after any election, the registrar and judges of election shall deposit the registration books for their respective precincts with the register of deeds of their respective counties.

1901, c. 89, s. 25.

VII. PERMANENT REGISTRATION.

4228. Who entitled to. Every person claiming the benefit of section four of article six of the constitution of North Carolina, as ratified at the general election on the second day of August, one thousand nine hundred, and who shall be entitled to register upon the permanent record for registration provided for under said section four, shall, prior to December first, one thousand nine hundred and eight, apply for registration to the officer charged with the registration of voters as prescribed by law in each regular election to be held in the state for members of the general assembly, and such person shall take and subscribe before such officer an oath in the following form, viz:

I am a citizen of the United States and of the state of North Carolina; I am years of age. I was on the first day of January, A. D. one thousand eight hundred and sixty-seven, or prior to said date, entitled to vote under the constitution and laws of the state of, in which I then resided (or, I am a lineal descendant of who was on January 1, one thousand eight hundred and sixty-seven, or prior to that date, entitled to vote under the constitution and laws of the state of wherein he then resided).

1901, c. 550, s. 1.

4229. Oaths administered, and names recorded. It shall be the duty of the officer charged with the registration of voters in all such elections held in this state until November first, one thousand nine hundred and eight, to administer such oaths and to record the name of such person on his roll of registered and qualified voters; and all registration under this chapter and under the said section of the constitution shall be had and taken at the times and places provided by law for registration of voters for all such elections in this state until November first, one thousand nine hundred and eight.

1901, c. 550, s. 2.

4230. Registrar must return list of, to clerk of superior court; he records in a book. It shall be the duty of such registration officer, within five days after the close of the election, to return to the clerk of the superior court of the county in which he resides a list of the names of all the persons so registered by him, stating therein the name and age of such person, and the name of the person from whom descended, unless he himself was a voter on January first, one thousand eight hundred and sixty-seven, or prior thereto, and the state wherein he or his ancestor was a voter and the date on which he applied for registration, and it shall be the duty of the clerk of the superior court, within ten days after receipt of said list, to make an alphabetical roll by townships of all persons taking such oath and registered by such registrar, and to record the same in a book to be provided for that purpose, which said book shall contain the name and age of such person, the name of the person from whom he was descended, unless he himself was a voter on January first, one thousand eight hundred and sixty-seven, or prior thereto, the state in which he was such voter and the date he applied for registration. And the said roll shall, during the office hours of said clerk, be open to the inspection of the public.

1901, c. 550, s. 3; 1903, c. 557.

4231. Clerks to certify list to secretary of state. It shall be the duty of the several clerks of the superior courts of this state to certify to the secretary of state, within thirty days after the close of each election, a copy of the said roll in his office, and it shall be the duty of the secretary of state to record, in a book provided for that purpose, the facts set out in such certified copy, and keep the lists from each county separate. The clerk of the superior court shall keep the lists from each township in separate columns. The books kept by such clerks and the secretary of state shall be plainly lettered "Permanent Roll of Registered Voters," and they shall prepare a complete alphabetical index to the same. And for recording and indexing such names the clerks of the superior courts shall receive as compensation ten cents for each copysheet, to be paid by the county commissioners.

1901, c. 550, s. 4; 1903, c. 557, s. 2.

4232. Registrars to enter names on books, and so certify; clerk certifies to genuineness; how copy obtained. It shall be the duty of all officers charged with the registration of voters in any election held in the state, to enter the name of such person on the registration book and voting lists of his township, ward or precinct, and to give a certificate in the following form:

I,, registrar for township (ward or precinct) of county, do hereby certify that on this day of race, of county, township, precinct (or ward), age years, took and subscribed the oath required by law, and has this day been registered on the permanent roll as a voter in said township (ward or precinct), in accordance with section four, article six of the constitution of North Carolina.

This the day of, 190.. Registrar.

And it shall be the duty of the clerk of the superior court to certify under his hand and seal to the genuineness of such certificate as follows:

North Carolina, County.

I,, clerk of the superior court of the aforesaid county, do hereby certify that the foregoing certificate is in due form, and that the signature of said, registrar of said precinct (ward or township), is in his own proper handwriting.

Witness my hand and official seal, this the day of, 190.. Clerk of the Superior Court.

And for furnishing such certificates and administering such oaths neither the said registrar nor clerk shall be paid any compensation by the person so applying for registration. In the event of the loss of such certificate the person entitled to the same, upon the payment of twenty-five cents, may obtain from the clerk of the superior court, or from the secretary of state, a certificate under his official seal to the effect that his name is on the Permanent Roll of Registered Voters from his county, in his office, and such certificate shall, in all respects, take the place of such original and be used as such.

1901, c. 550, s. 5.

4233. Copy obtained from secretary's office, when. In the event of loss or destruction of such rolls in the clerk's office, it shall be his duty to obtain from the secretary of state a certified copy of said roll for his county, and such certified copy shall be good and effectual for all purposes as the original would have been.

1901, c. 550, s. 6.

4234. Copy of, or certificate from, evidence of voter's rights. In all suits involving the right to vote, or trying the title to office, or other action in which such rolls are produced in evidence, all of the facts and recitals therein shall be taken as prima facie evidence of such facts and recitals, and if the right of any voter upon such rolls to vote is challenged, either his certificate or a certified copy of such permanent roll shall be deemed prima facie evidence of his right to vote.

1901, c. 550, s. 7.

4235. Voter moving, how registered. Whenever any voter so registered shall remove from one precinct to another in the same

county, or from one county to another in the state, he shall make application for registration, and upon production of his certificate of his being on the permanent roll, as provided in this chapter, under the hand and seal of either the clerk of the superior court or of the secretary of state, and proof of his identity, the proper officer charged with the registration of voters shall register his name and make record of the same as in cases of original registration under this chapter.

1901, c. 550, s. 8.

4236. Entitled to vote, though unable to read. Any person holding a certificate of registration, as herein provided, shall be entitled to register in any county in this state, notwithstanding his inability to read and write: Provided, that he shall be otherwise qualified as an elector.

1901, c. 550, s. 9.

4237. Secretary of state furnishes necessary blanks. The secretary of state shall procure, provide and furnish to the several officers named in this chapter and charged with duties under it, all such books, blanks and other printed matter as may be necessary to carry into effect the provisions of this chapter.

1901, c. 550, s. 10.

4238. Books constitute roll in secretary of state's office. The books containing the permanent roll of registered voters, sent to the office of the secretary of state by clerks of the courts of the several counties, shall be and constitute the "Permanent Roll of Registered Voters," required by this chapter to be kept in the office of the secretary of state, and such books shall be deemed a full and complete compliance with the requirements of this chapter. It shall be the duty of the several clerks of the court, within thirty days after the close of each registration hereafter to be held, up to the first day of December, one thousand nine hundred and eight, to forward to the secretary of state the names of all persons registering under article six, section four, of the constitution of North Carolina, as required by this chapter, and it shall be the duty of the secretary of state to record such names in the "Permanent Roll of Registered Voters" for the several counties.

1903, c. 178.

VIII. JUDGES.

4239. How and when appointed. The county board of elections for each county, on or before the first Monday in September, in the year of our Lord one thousand nine hundred and six, and biennially thereafter, or at such other times as it shall be necessary to do so,

shall appoint two persons who shall act as judges of election at each place of holding elections in their respective districts, each of whom shall be men of good moral character and able to read and write. The chairman of each political party in each county shall have the right to recommend three electors, residing in the precinct, who shall be men of good moral character, and able to read and write, for judges of election in such precinct: Provided, that no person holding any office or place of trust or profit under the government of the United States or the state of North Carolina, except justices of the peace, shall be eligible to appointment. And the county board of elections shall appoint one judge of election out of each list so recommended: Provided, said lists shall be filed by such chairman by twelve o'clock, m., on said first Monday in September.

• 1901, c. 89, s. 20.

4240. Names published; vacancies filled; qualify before acting.

The county board of elections shall, immediately after the appointment of judges of election as herein provided, publish the names of such judges so appointed, at the courthouse door of said county; and if any person appointed judge of election shall decline to serve and so notify the chairman of the county board of elections, said chairman shall have the right to appoint another qualified elector of such precinct, who shall be of the same political party, if possible, to serve as judge of election in his stead, and his name shall be published at the courthouse door, and notice of his appointment served upon him as above provided. If any person appointed judge of elections shall fail to attend at the polls at the hour of opening the same, the registrar of the township, ward or precinct shall appoint some suitable elector of the same political party as the judge failing to appear, if practicable, to act in his stead, who shall be by him sworn before acting; and if the registrar shall fail to appear, then the judges of election may appoint another to act as registrar, who shall be sworn before acting.

1901, c. 89, s. 20.

4241. Duties of. The judges of election shall attend at the polling places for which they are severally appointed on the day of election, and they, together with the registrar for such township, ward or precinct, who shall attend with the registration books, after being sworn by some justice of the peace, or other person authorized to administer oaths, to conduct the election fairly and impartially, according to the constitution and laws of the state, shall open the polls and superintend the same until the close of the election. They shall keep poll books, in which shall be entered the name of every person who shall vote, and at the close of the election the said registrar and judges of election shall certify the same over their proper

signatures, or a majority of them, and deposit one copy thereof with the register of deeds and another with the chairman of the county board of elections for safe-keeping. And said poll books shall, in any trial for illegal or fraudulent voting, be evidence.

1901. c. 89, s. 20.

IX. CHALLENGES.

4242. Registrar attends for, when. It shall be the duty of the registrar to attend the polling place of his township or precinct with the registration books on Saturday preceding the election, from the hour of nine o'clock, a. m., till the hour of three o'clock, p. m., when and where the said books shall be open for the inspection of the electors of the precinct or township, and any of said electors shall be allowed to object to the name of any person appearing on said books. In case of any such objection, the registrar shall enter upon his books, opposite the name of the person so objected to, the word "challenged," and shall appoint a time and place, before the election day, when he, together with said judges, shall hear and decide said objection, giving personal notice of such challenge to the voter so objected to; and if for any cause personal notice can not be given, then it shall be sufficient notice to leave a copy thereof at his residence: Provided, nothing in this section shall prohibit any elector from challenging or objecting to the name of any person registered or offering to register at any time other than that above specified. If any person so challenged or objected to shall be found not duly qualified, the registrar shall erase his name from the books.

1901, c. 89, s. 19.

4243. How heard. When any person is challenged, the judges and registrar shall explain to him the qualifications of an elector, and shall examine him as to his qualifications; and if the person insists that he is qualified and shall prove his identity with the person in whose name he offers to vote, and his continued residence in the precinct since his name was placed upon the registration list, as the case may be, by the testimony, under oath, of at least one elector, one of the judges, or the registrar, shall tender to him the following oath or affirmation:

You do solemnly swear (or affirm) that you are a citizen of the United States; that you are twenty-one years old, and that you have resided in this state for two years, and in this county for six months next preceding this election, and that you are not disqualified from voting by the constitution and laws of this state; that your name is (here insert name given), and that in such name you were duly registered as a voter of this township; and that you are the identical person you represent yourself to be, and that you have not voted in this election at this or any other polling place. So help you, God.

And if he refuses to take such oath, when tendered, his vote shall be rejected; if, however, he does take the oath when tendered, his vote shall be received: Provided, that after such oath or affirmation shall have been taken, the registrar and judges may, nevertheless, refuse to permit such person to vote, unless they be satisfied that he is a legal voter; and they are hereby authorized to administer the necessary oaths or affirmations to all witnesses brought before them to testify to the qualification of a person offering to vote. Whenever any person's vote shall be received, after having taken the oath or affirmation prescribed in this section, the registrar or one of the judges shall write on the poll books, at the end of such person's name, the word "Sworn." The same powers as to the administration of oaths and affirmations and the examination of witnesses, as in this section granted to registrars and judges of election, may be exercised by the registrars in all cases where the names of persons registered or offering to register are objected to.

1901, c. 89, s. 22.

X. HOW CONDUCTED.

4244. Special elections. Every election held in pursuance of a writ from the governor, shall be conducted in like manner as the regular biennial elections, so far as the particular case can be governed by general rules, and shall, to all intents and purposes, be as legal and valid, and subject the officers holding and the persons elected to the same penalties and liabilities as if the same had been held at the time and according to the rules and regulations prescribed for the regular biennial elections.

1901, c. 89, s. 75.

4245. Polls, how opened and held. The polls shall be open on the day of election from sunrise until sunset on the same day, and no longer, and each elector whose name shall appear registered shall be entitled to vote, unless he is successfully challenged for good cause on the day of election. A space of not more than fifty feet in every direction from the polls or rooms in which the election is held may be kept open and clear of all persons except the judges, registrar and election bailiffs herein provided for, which space may be roped off with a narrow passage leading to and from the polls, and each elector shall approach the polls from one direction through such passage, and after his ballot is deposited in the ballot box, with as little delay as possible he shall depart by the passage leading from the polls. Only one elector shall enter the said passage at a time, and after the elector has entered, no one except the registrar or judges of election shall be permitted to speak to him or make any signs to him, nor shall he be permitted to speak or to make any signs to any one except

the registrar or judges of election, until his ballot has been deposited in the box and he has passed out of the enclosure. The said roped space shall, at all times during the hours for balloting, be kept open and clear of all persons except the election officers as aforesaid, and it shall be the duty of the election bailiffs to keep such space so cleared and open: Provided, that nothing herein contained shall make it compulsory for the judges and registrar to rope off said space: Provided further, that when any person is challenged, one challenger for each political party shall be entitled to enter the space roped off during the hearing of such challenge, but they shall retire therefrom upon the challenge being decided.

1901, c. 89, s. 23.

4246. Voter may deposit his own ballot. The ballot may be deposited for the voter by the registrar, or one of the judges of election, or the voter may deposit it if he chooses.

1901, c. 89, s. 24.

4247. Size of ballots. The ballots shall be on white paper and may be printed or written, or partly written and partly printed, and shall be without device. The state board of elections may, on or before the first Monday of September, one thousand nine hundred and six, and biennially thereafter, prescribe the size of ballots for state, judicial and congressional officers, and the county board of elections may, on or before the first Monday of September, one thousand nine hundred and six, and biennially thereafter, prescribe the size of the ballot for county, legislative and township offices.

1901, c. 89, s. 27.

4248. What ticket to contain. The state officers, viz.: Governor, lieutenant governor, secretary of state, auditor, treasurer, superintendent of public instruction, attorney general, and other state officers not herein mentioned, the justices of the supreme court and the judges of the superior court shall be voted for on one ballot; members of Congress on one ballot; presidential electors on one ballot; solicitors, members of the general assembly, clerk of the superior court, treasurer, register of deeds, surveyor, coroner, sheriff, county commissioners, tax collector, and every other officer elected by the voters of the county, shall be voted for on one ballot. All officers elected by the voters of a township shall be voted for on one ballot.

1901, c. 89, s. 28.

4249. Ballot boxes, description; how provided. The county board of elections, or upon their failure, the registrar and judges of election, shall provide in each election precinct in their respective counties, ballot boxes for each class of officers to be voted for in which to deposit the ballots for such officers respectively. Each of

said boxes shall have an opening through the lid of sufficient size to admit a single ballot, and no more. Each box shall be labelled in plain roman letters, designating whether congressional, state, county or township box. The ballot boxes so furnished by the said county board of elections may be kept by the registrars after the election is over, if so ordered by said county board; otherwise they shall be returned to said board. The said registrar and judges of election, before the voting begins, shall carefully examine the ballot boxes and see that there is nothing in them, and thereupon they shall close and securely fasten the same, and no ballot box shall be opened until the time for voting is at an end.

1901, c. 89, s. 29.

4250. How votes counted. When the election shall be finished, the registrar and judges of election, in the presence of such of the electors as may choose to attend, shall open the boxes and count the ballots, reading aloud the names of the persons who shall appear upon each ticket; and if there shall be two or more tickets rolled up together, or any ticket shall contain the names of more persons than such elector has a right to vote for, or shall have a device upon it; in either of these cases such tickets shall not be numbered in taking the ballots, but shall be void; and the said counting of votes shall be continued without adjournment until completed and the result thereof declared. Any ballot found in the wrong box shall not be counted, unless the registrar and judges of election shall be satisfied that the same was placed there by mistake.

1901, c. 89, s. 30.

XI. COUNTY BOARD OF CANVASSERS.

4251. How members appointed. The registrar and judges of election in each township, ward or precinct shall appoint one of their number to attend the meeting of the board of county canvassers as a member thereof, and they shall deliver to the member who shall have been so appointed the original return or statement of the result of the election in such township, ward or precinct, and the members of the several township, ward or precinct boards of election, who shall have been so appointed, shall constitute the board of county canvassers for such county, and a majority shall constitute a quorum.

1901, c. 89, s. 31.

4252. When to meet; elect chairman; how sworn. The board of county canvassers shall meet on the second day next after every election, at eleven o'clock a. m. of that day at the courthouse of the county, and at that hour, without delay, the members of such board who shall then be present shall choose one of their number who shall

be chairman, and shall choose one of their members as clerk of said board: Provided, the board of county canvassers of Carteret, Hyde and Dare shall meet on the seventh day after the election. As soon as such chairman shall be appointed he shall administer to each of the other members, and each of the other members shall take an oath or affirmation in the following form: "You do swear (or affirm) that you will faithfully and impartially execute the duties of the board of canvassers according to law." And thereupon one of the members of such board, appointed for that purpose, shall administer to such chairman, and such chairman shall take an oath or affirmation in the same form as that taken by the other members of the board. And before proceeding to canvass and estimate the votes in such county, the chairman of the board shall administer to the clerk thereof an oath or affirmation in the following form: "You do swear (or affirm) that you will faithfully execute the duties of clerk of this board according to law."

1901, c. 89, s. 32.

4253. Canvass returns; determine result. The board of county canvassers at their said meeting, in the presence of such electors as choose to attend, shall open and canvass and judicially determine the returns, stating the number of legal ballots cast in each precinct for each officer, the name of each person voted for, and the number of votes given to each person for each different office, and shall sign the same. The said board shall have power and authority to judicially pass upon all facts relative to the election, and judicially determine and declare the result of the same. And they shall also have power and authority to send for papers and persons and examine the same.

1901, c. 89, s. 33.

4254. What returns placed on same abstracts. The abstract of votes for each of the following classes of officers shall be made on a different sheet:

1. Governor and all state officers; justices of the supreme court and judges of the superior court.
2. Senators and representatives of the general assembly.
3. Solicitor.
4. County officers.
5. Township officers.
6. Representatives in Congress.

1901, c. 89, s. 34.

4255. Abstract of votes for offices, except county and township, where sent. Two abstracts of all votes cast for state officers, representative in Congress, for justices of the supreme court, for

judges of the superior court, and for solicitor, shall be made and signed by the chairman of the board of county canvassers, one of which shall be delivered to the chairman of the county board of elections, one filed with the register of deeds, to be registered in his office, also two separate abstracts of all votes cast for state senators, when the senatorial districts consist of more than one county, one of which shall be filed with the register of deeds to be registered in his office, and the other furnished to the county board of elections or other returning officer.

1901, c. 89, s. 35.

4256. Abstracts of county and township offices, where filed.

Two abstracts of the votes cast for county and township officers and for members of the general assembly shall be made and signed by the chairman of the board of county canvassers, one of which shall be delivered to the chairman of the county board of elections, and one filed with the register of deeds to be registered in his office.

1901, c. 89, s. 36.

4257. Original returns, where filed. When the canvass is concluded the board shall deliver the original returns to the clerk of the superior court to be filed in his office. The register of deeds shall also deliver by mail to the secretary of state and to the chairman of the state board of elections, each, one duplicate of the abstract of the votes cast for governor, and all state officers, for justices of the supreme court, judges of the superior court, and solicitor and representative in Congress.

1901, c. 89, s. 37.

4258. Who declared elected. The person having the greatest number of legal votes for any office is to be declared elected. But if two or more county candidates, having the greatest number of votes, shall have an equal number, the county board of elections shall determine which shall be elected.

1901, c. 89, s. 38.

4259. To declare result of election. When the board of county canvassers shall have thus completed the comparison of the polls, they shall judicially determine the result of the election in their county for all persons voted for, and proclaim the same at the courthouse door with the number of votes cast for each.

1901, c. 89, s. 39.

XII. STATE BOARD OF CANVASSERS.

4260. Who constitutes. The governor and four members of the state board of elections, to be named and selected by said board,

shall constitute the board of state canvassers, but no member thereof shall take part in canvassing the votes for any office for which he himself is a candidate.

1901, c. 89, s. 63.

4261. Duty of. The board of state canvassers shall open the abstracts transmitted to the secretary of state on the Thursday following the third Monday after each election held under the provisions of this chapter, and examine the returns, if they shall have been received from all of the counties, and, if not all received, they may adjourn not exceeding twenty days for the purpose of obtaining the returns from all of the counties, and when these are received, shall proceed with the canvass, which canvass shall be conducted publicly in the hall of the house of representatives. They shall make an abstract, stating the number of legal ballots cast for each candidate, the names of all persons voted for, for what office they respectively received the votes, and the number of votes each received, and stating whom they ascertain and judicially determine by the count to be elected to the office, which abstract shall be signed by the board of canvassers in their official capacity as state canvassers, and have the seal of the state affixed thereto: Provided, that in all cases of special elections ordered by the governor to fill vacancies in the representation of the state in the Congress, the board of state canvassers may meet as soon as the secretary of state may notify the members of the board that the returns from all the counties entitled to vote in said special elections have been received by him; and it shall be the duty of the secretary of state to fix the days of meeting, which shall not be later than ten days after such elections, and it shall be the duty of all returning officers to make their returns promptly, so that the same may be received within the ten days.

1901, c. 89, s. 65.

4262. Abstracts not received, duty of. If the abstracts or returns from any county shall not be received at the office of the secretary of state, or by the state board of elections, by the third Monday after the day of election, the secretary of state is authorized to obtain from the register of deeds, or the county board of elections, at the expense of such county, the original abstracts or returns, or if they have been forwarded, copies of them.

1901, c. 89, s. 64.

4263. Estimate votes cast for officers executive department. The board of state canvassers shall estimate the votes cast for officers of the executive department from the abstracts forwarded to the secretary of state, and shall publish a statement of the result of such calculation, but this statement shall be for information of the pub-

lic only, and shall not have the effect to determine what candidates have been elected to such offices. Their election shall be ascertained and declared according to section three, article three, of the constitution.

1901, c. 89, s. 68.

4264. To declare result; certificate of election, how issued.

After the state board of canvassers shall have ascertained and declared the result of the elections as hereinbefore provided, they shall cause the result to be certified to the secretary of state, who shall prepare a certificate for each person elected, and shall sign the same, which certificate he shall deliver to the person elected, when he shall demand the same.

1901, c. 89, s. 67.

4265. Secretary of state to record abstracts. The secretary of state shall record the abstract or abstracts in a book to be kept by him for recording the result of elections, and to be called, "The Election Book," and shall also file the abstract or abstracts.

1901, c. 89, s. 66.

XIII. STATE OFFICERS.

4266. How returns published and result declared; how tie broken. The speaker of the house of representatives, in the presence of a majority of the members of both houses of the general assembly, shall open and publish the returns for governor, lieutenant governor, secretary of state, auditor, treasurer, superintendent of public instruction and attorney general, or other state officers, at twelve o'clock, noon, on the first Tuesday after the organization of both houses of the general assembly. And if for any cause there be no returns from any county of the state, or if any return be defective, a proper return shall be had in such manner as the two houses in joint session may direct; and in either case the publication of the result may be postponed to such time as the joint session of the two houses may deem best. The person having the highest number of votes for each office, respectively, shall be declared duly elected thereto; but if two or more be equal and highest in votes for the same office then one of them shall be chosen by joint ballot of both houses of the general assembly. Contested elections shall be determined by a joint vote of both houses of the general assembly in the same manner and under the same rules and regulations as prescribed in cases of contested election of members of the general assembly.

1901, c. 89, s. 44.

4267. Abstract of votes for, how made. An abstract of the returns for state officers shall be made by the clerks of the two houses

of the general assembly, showing the number of ballots cast for each candidate, the names of all persons voted for, the offices for which they received such votes, and the number of votes cast for each person, and the persons ascertained by the canvass to be elected to the several offices, and said abstract shall be signed by the presiding officers of the two houses and delivered to the secretary of state, who shall record it in the election book kept in his office and then file it. Said abstract shall also be printed in the journals of the two houses, and in the legislative documents.

1901, c. 89, s. 45.

XIV. CONGRESSMEN.

4269. Members of the senate. The election for members of the United States senate shall be held and conducted according to the provisions of the act of Congress of the twenty-fifth of July, one thousand eight hundred and sixty-six, fourteenth statute at large, chapter two hundred and forty-five, page two hundred and forty-three.

1901, c. 89, s. 56.

4270. Congressional districts. For the purpose of selecting representatives to the Congress of the United States, the state of North Carolina shall be divided into ten districts, as follows:

First District—Beaufort, Camden, Chowan, Currituck, Dare, Gates, Hertford, Hyde, Martin, Pasquotank, Perquimans, Pitt, Tyrrell and Washington.

Second District—Bertie, Edgecombe, Greene, Halifax, Lenoir, Northampton, Warren and Wilson.

Third District—Carteret, Craven, Duplin, Jones, Onslow, Pamlico, Pender, Sampson and Wayne.

Fourth District—Chatham, Franklin, Johnston, Nash, Vance and Wake.

Fifth District—Alamance, Caswell, Durham, Forsyth, Granville, Guilford, Orange, Person, Rockingham and Stokes.

Sixth District—Bladen, Brunswick, Columbus, Cumberland, Harnett, New Hanover and Robeson.

Seventh District—Anson, Davidson, Davie, Montgomery, Moore, Randolph, Richmond, Scotland, Union and Yadkin.

Eighth District—Alexander, Alleghany, Ashe, Cabarrus, Caldwell, Iredell, Rowan, Stanly, Surry, Watauga and Wilkes.

Ninth District—Burke, Catawba, Cleveland, Gaston, Lincoln, Madison, Mecklenburg, Mitchell and Yancey.

Tenth District—Buncombe, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, McDowell, Macon, Polk, Rutherford, Swain and Transylvania.

1901, c. 89, s. 57; 1901, c. 441.

4271. When held, for representative. The election for members of Congress shall be held on the Tuesday next after the first Monday in November, one thousand nine hundred and six, and biennially thereafter, unless Congress shall prescribe a different time for the holding of such elections, and shall be conducted by the officers provided for holding elections of members of the general assembly in this chapter and at the same place.

1901, c. 89, s. 59.

Note. See also, s. 4200.

4272. New apportionment of representatives; how elected. Whenever, by a new apportionment of representatives among the several states, the number of representatives in the Congress of the United States from North Carolina shall be either increased or decreased, and neither the Congress nor the general assembly shall provide for the election of the same, then if the said representatives shall be increased, the increased number shall be elected by the qualified voters of the whole state, and shall be voted for on one ballot, and the representatives from the several congressional districts shall be elected by the voters of said districts, respectively, and shall each be voted for on another ballot; but if the number of said representatives shall be decreased as aforesaid, in that event all the representatives in Congress shall be elected by the qualified voters of the whole state and shall be voted for on one ballot.

1901, c. 89, s. 58.

4273. Special election for. If at any time after the expiration of any Congress and before another election, or if at any time after an election, there shall be a vacancy in the representation in Congress, the governor shall issue a writ of election, and by proclamation shall require the voters to meet in the different townships in their respective counties at such times as may be appointed therein, and at the places established by law, then and there to vote for a representative in Congress to fill the vacancy; and the election shall be conducted in like manner as regular elections.

1901, c. 89, s. 60.

4274. To obtain a certificate. Every person duly elected a representative to Congress, upon obtaining a certificate of his election from the secretary of state, shall procure from the governor a commission, certifying his appointment as a representative of the state, which the governor shall issue on such certificate being produced.

1901, c. 89, s. 61.

XV. PRESIDENTIAL ELECTORS.

4275. How conducted. The election shall be conducted and the returns made as nearly as may be directed in relation to the election of state officers, except as herein otherwise expressed.

1901, c. 89, s. 79.

4276. Names on one ballot. The names of the electors to be chosen shall be written or printed on each ballot, and each ballot shall contain the name of at least one inhabitant of each congressional district into which the state may be divided and against the name of each person shall be designated the number of the congressional district to which he belongs.

1901, c. 89, s. 78.

4277. How returns made. The county board of canvassers shall meet in the courthouse of their respective counties as hereinbefore provided, and shall ascertain and determine, by faithful addition, the number of legal votes for every person who shall have been voted for as an elector within the county, and shall certify the same under their hands substantially in the manner and form following, to-wit:

We, the county canvassers for county, do hereby certify that an election was held on the day and at the places fixed by law within said county, for electors of president and vice-president of the United States, and that the number of votes hereinafter specified opposite the names of the several persons following was given for such persons as electors for the state of North Carolina, of president and vice-president of the United States, namely: D. G. F. (here state the number of votes for D. G. F.); for J. M. L. (here state the number of votes for J. M. L., and so on, until the list of persons voted for and the number of votes shall be completed).

Given under our hands, this day of in the year A. D.

Three fair copies of such certificate and return shall be made by the board of canvassers under their hands, and one of the same shall be immediately delivered to the chairman of the county board of elections of the county, whose duty it shall be to attend at the meeting of said canvassers, and who shall forthwith make proclamation and read the same through at the courthouse door; and the said chairman of the county board of elections shall immediately thereafter seal up said copy in an envelope, and transmit the same by mail in a registered letter or otherwise, to the secretary of state at the capitol in Raleigh so that he shall receive the same within twelve days after the day of election; and one of said copies, together with the original precinct returns, shall be delivered to the clerk of the superior court, who shall record the said copy in The Election Book, and file the originals of said copy in his office. And one copy shall be delivered to the register of deeds, to be registered in his office. The clerk of the superior court shall immediately, after

the same shall have been delivered to him, send a copy of the certificate of the board of county canvassers, sealed with the seal of his office, to the secretary of state at Raleigh, so that he may receive the same within twelve days after said election. And in case of failing to make such returns within the time herein prescribed, such chairman of the county board of elections, clerk or other officer, whose duty it shall be so to do, shall forfeit and pay to the state the sum of five hundred dollars, to be recovered by the attorney general, in the superior court for the county of Wake.

1901, c. 89, s. 80.

4278. How result declared, and proclamation made. The secretary of state, within three days after the expiration of the time hereinbefore provided for the delivery to him of said certificate and returns, shall deliver the same to the state board of canvassers, whose duty it shall be to then attend, in the presence of such other persons as may choose to be present, in the hall of the house of representatives in the capitol, open the certificate and proceed to canvass the same, and ascertain and determine the result: Provided, that if the returns from any county shall not, by that time, have been received by the secretary of state from the chairman of the county board of elections, or clerk of the superior court, or register of deeds, then the board of state canvassers shall order and compel a duplicate return from the clerk of the superior court and the chairman of the county board of elections, or register of deeds, or both, in such manner as they may think best; and for that purpose they may adjourn from day to day, not to exceed ten days. The board of state canvassers in canvassing said returns shall merely add up the returns, as certified by the county board of canvassers, but it shall be their duty to disregard any such apparent clerical error or any such technical informality as may not render it reasonably uncertain who was the person intended to be designated as voted for, and what was the number of votes actually received by any candidate. At the conclusion of the canvass, the board shall make an abstract of all votes cast, and shall deliver the same to the secretary of state, together with the original returns from the several counties, to be filed in his office. The secretary of state shall copy the said abstracts in *The Election Book*, directed in this chapter to be kept in his office, and shall, under his hand and seal of his office, certify to the governor the names of as many persons receiving the highest number of votes for electors of president and vice-president of the United States as the state may be entitled to in the electoral college. The governor shall thereupon immediately issue his proclamation and cause the same to be published in such daily newspapers as may be published in the city of Raleigh, wherein he shall set forth the names of the persons duly elected as electors, and warn each

of them to attend at the capitol in the city of Raleigh at noon on the second Monday of January next after his election, at which time the said electors shall meet, and in case of the absence or ineligibility of any elector chosen, or if the proper number of electors shall for any cause be deficient, those present shall forthwith elect from the citizens of the state so many persons as will supply the deficiency, and the persons so chosen shall be electors to vote for the president and vice-president of the United States. And the governor shall, on or before the second Monday of January, make out three lists of the names of the said persons so elected and appointed electors, and cause the same to be delivered to them, as directed by the act of Congress.

1901, c. 89, s. 81.

4279. Failing to attend and vote for president. Each elector, with his own consent previously signified, failing to attend and vote for a president and vice-president of the United States, at the time and place herein directed (except in case of sickness or other unavoidable accident), shall forfeit and pay to the state five hundred dollars, to be recovered by the attorney general in the superior court of Wake county.

1901, c. 89, s. 83.

XVI. MISCELLANEOUS.

4280. Power to maintain order. The registrar and judges of election, in each ward or precinct, the board of county canvassers of each county, and the board of state canvassers shall respectively possess full power and authority to maintain order, and to enforce obedience to their lawful commands during their sessions, respectively, and shall be constituted inferior courts for that purpose, and if any person shall refuse to obey the lawful commands of any such registrar or judges of election, or board of county canvassers, or board of state canvassers, or by disorderly conduct in their hearing or presence shall interrupt or disturb their proceedings, they may, by an order in writing, signed by their chairman, and attested by their clerk, commit the person so offending to the common jail of the county for a period not exceeding thirty days, and such order shall be executed by any sheriff or constable to whom the same shall be delivered, or if a sheriff or constable shall not be present, or shall refuse to act, by any other person who shall be deputed by such township or precinct board of elections, or board of county canvassers in writing, and the keeper of such jail shall receive the person so committed and safely keep him for such time as shall be mentioned in the commitment.

1901, c. 89, s. 72.

4281. Judges, solicitors, commissioned by governor; when term begins. Justices of the supreme court, judges of the superior court, and solicitors shall be commissioned by the governor, and their terms of office shall begin on the first day of January next succeeding their election. An election for officers, whose terms shall be about to expire, shall always be held at the general election next preceding the expiration of their terms of office.

1901, c. 89, s. 69.

4282. Sheriff to give receipt for poll tax. Every sheriff or tax collector, upon payment of the poll tax, shall issue to the person paying the same a certificate showing the amount of such poll tax and the true date upon which the same was paid.

1901, c. 89, s. 13.

4283. When entitled to duplicate. Any person having paid his poll tax as required by law, and having lost his tax receipt, shall, upon making affidavit of such loss and satisfactory proof of his identity, be entitled to a duplicate thereof from the sheriff or tax collector.

1901, c. 89, s. 13.

4284. Sheriff to certify list of taxpayers to clerk, who certifies to board of elections. It shall be the duty of every sheriff and tax collector, between the first and tenth days of May of each year in which a general election occurs, to certify under oath a true and correct list of all persons who have paid their poll tax for the previous year on or before the first day of May, to the clerk of the superior court, who shall, within ten days, record the same in a book to be provided for that purpose, keeping each township separate, and certify a true copy thereof to the chairman of the board of elections for such county.

1901, c. 89, s. 13.

4285. Bailiffs may be appointed. The registrar and judges of election may appoint one or more bailiffs for each precinct or ward to be present during the election to keep peace and protect the voting place, and to prevent improper intrusion upon the voting place, or interfering with the election, and to arrest all persons creating any disturbance about the voting place, and to enable all persons who have not voted and who desire to vote, to have unobstructed access to the polls for the purpose of voting when others are not voting, and to keep clear the open space hereinbefore provided at all times during the election. It shall be the duty of the election bailiffs to be present at the voting place, and to take such steps as will accomplish the object of their appointment and they shall have full power to do so; and they may summon to their aid all persons present at

the voting place, and may arrest offenders against this section, who shall have the privilege of giving bail. And for the purposes of carrying out the powers herein conferred upon them, the registrar and judges of election shall be and are hereby constituted conservators of the peace. Every person offending against this section shall be guilty of a misdemeanor, and upon conviction shall be fined or imprisoned at the discretion of the court.

1901, c. 89, s. 26.

4286. Penalty for refusing copy of poll books. Any officer who shall refuse to permit any candidate, or person qualified to vote, at his own expense, to have a copy of the poll books, shall forfeit and pay two hundred dollars, one-half to the person who shall sue for the same, and the other half to the use of the state. Such copy need not be given if the making interferes with the duty of the holder of the books.

1901, c. 89, s. 83.

4286a. Forms for returns sent to proper officers by secretary of state. The secretary of state shall cause proper forms of returns to be prepared and printed, and send copies thereof, with plain directions as to the manner of endorsing, directing and transmitting the same, to the seat of government, to all of the returning officers of the state, at least thirty days before the time for holding any election. He shall also furnish to the register of deeds of each county all such printed blanks as may be necessary for making the county returns.

1901, c. 89, s. 43.

NOTE. For crimes in elections, see Crimes—Elections.

CHAPTER 94.

EMBALMERS.

(Sections 4287—4293.)

4287. State board, how elected; qualifications; term of office; vacancies, how filled. The state board of embalmers shall consist of five members, elected by the state board of health, three of whom shall be members of the state board of health, the other two shall be practical embalmers, having experience in the care and disposition of dead human bodies. One member of such board shall be elected in

June, one thousand nine hundred and five, and annually thereafter during the month of June one member of such board shall be elected. The term of office shall begin on the first day of July next after the election, and continue for five years. The state board of health shall fill all vacancies in such board.

1901, c. 338, ss. 1, 2, 3.

4288. Members, how removed; take oath of office. The state board of health shall have power to remove from office any member of said board for neglect of duty, incompetency or improper conduct. The state board of health shall furnish each person appointed to serve on the state board of embalmers a certificate of appointment. The appointees shall qualify by taking and subscribing to the usual oath of office before some person authorized to administer oaths, within ten days after said appointment has been made, which oath shall be filed with the board of embalmers.

1901, c. 338, ss. 3, 4.

4289. Common seal; powers. The board shall adopt a common seal, and shall have all the powers and privileges conferred on it by the laws of the state.

1901, c. 338, s. 6.

4290. Meetings, when held; quorum; may enact by-laws; officers; term of office; may administer oaths. The board shall meet at least once every year, during the month of July, at such place as it may determine. Three members shall constitute a quorum. At each annual meeting the board from its members shall select a president and a secretary, who shall hold their offices for one year, and until their successors are elected. The board shall, from time to time, adopt rules, regulations and by-laws, not inconsistent with the laws of this state, or of the United States, whereby the performance of the duties of such board and the practice of embalming of dead human bodies shall be regulated. The president of the board (and in his absence a president pro tempore elected by the members present) is authorized to administer oaths to witnesses testifying before the board.

1901, c. 338, ss. 5, 6, 7, 8.

4291. License, how obtained; renewed annually; fees for; how displayed. Every person now engaged, or desiring to engage in the practice of embalming dead human bodies shall make written application to the state board of embalmers for a license, accompanying the same with a license fee of five dollars, whereupon the applicant shall present himself before the board at a time and place to be fixed by the board, and if the board shall find, upon due ex-

amination, that the applicant is of good moral character, possessed of skill and knowledge of said science of embalming and the care and disposition of the dead, and has a responsible knowledge of sanitation and the disinfection of bodies of deceased persons and the apartment, clothing and bedding, in case of death from infectious or contagious diseases, the board shall issue to such applicant a license to practice the art of embalming and the care and disposition of the dead, and shall register such applicant as a duly licensed embalmer. Such license shall be signed by a majority of the board and attested by its seal. All persons receiving a license under the provisions of this chapter shall also register the fact at the office of the board of health of the city, and where there is no board of health, with the clerk of the superior court in the county or counties in which it is proposed to carry on said practice, and shall display said license in a conspicuous place in the office of such licentiate. Every registered embalmer who desires to continue the practice of his profession shall annually, during the time he shall continue in such practice, on such day as the board may determine, pay to the secretary of the board a fee of two dollars for the renewal registration.

1901, c. 338, ss. 9, 10.

4292. Expenses and salaries, how paid. All expenses, salary and per diem to members of this board shall be paid from fees received under the provisions of this chapter, and shall in no manner be an expense to the state. All moneys received in excess of said per diem allowance and other expenses provided for, shall be held by the secretary of said board as a special fund for meeting the expenses of said board.

1901, c. 338, s. 11.

4293. Schools for teaching embalming same privileges as schools of medicine. Schools for teaching embalming shall have extended to them the same privileges as to the use of bodies for dissection while teaching as those granted to medical colleges.

1901, c. 338, s. 15.

Note. See ss. 4191-4195.

NOTE. For practicing trade without license, see Crimes.

CHAPTER 95.

FIREMAN'S RELIEF FUND.

(Sections 4294—4300.)

4294. Annual appropriation for. The sum of two thousand five hundred dollars is hereby appropriated annually and shall constitute a "fireman's relief fund."

1891, c. 468.

4295. Part paid North Carolina state volunteer fireman's association. The treasurer of the state shall pay the amount constituting the fireman's relief fund on the warrant of the auditor, one-fourth to the treasurer of the North Carolina state volunteer firemen's association, properly chartered by law, and three-fourths to the treasurer of the North Carolina state firemen's association. The said treasurer of the North Carolina state volunteer firemen's association shall give bond, and the said association shall disburse the funds in the same manner and under the same rules as the North Carolina state firemen's association.

1891, c. 468, s. 2; 1893, c. 474; 1895, c. 102.

4296. Name of fund; how used. The money so paid into the hands of the treasurer of the said North Carolina state firemen's association shall be known and remain as the "fireman's relief fund" of North Carolina, and shall be used as a fund for the relief of firemen, members of such association, who may be injured or rendered sick by disease contracted in the actual discharge of duty as firemen, and for the relief of widows, children, and if there be no widow or children, then dependent mothers of such firemen killed or dying from disease so contracted in such discharge of duty; to be paid in such manner and in such sums to such individuals of the classes herein named and described as may be provided for and determined upon in accordance with the constitution and by-laws of said association, and such provisions and determinations made pursuant to said constitution and by-laws shall be final and conclusive as to the persons entitled to benefits and as to the amount of benefit to be received, and no action at law shall be maintained against said association to enforce any claim or recover any benefit under this chapter or under the constitution and by-laws of said association; but if any officer or committee of said association omit or refuse to perform any duty imposed upon him or them, nothing herein contained shall be construed to prevent any proceedings against said officer or committee to compel him or them to perform such duty.

1891, c. 468, s. 3.

4297. Treasurer's bond; report to state treasurer. The treasurer of the North Carolina state firemen's association shall give a bond to the state of North Carolina with good and sufficient sureties to the satisfaction of the treasurer of the state of North Carolina in double the sum received by him of said state treasurer for the faithful performance of his duties under this chapter and shall make a detailed report to the state treasurer of the yearly expenditures of the appropriation under this chapter on or before the end of the fiscal year.

1891, c. 468, s. 4.

4298. Meaning of fire duty. The line of duty entitling one to participate in the fund shall not be so construed as to mean any other duty except actual fire duty, which shall consist of service in the fire department from the time of the fire alarm until the members are dismissed by the company officers at roll-call, also any actual duty connected with the fire department when directed to perform the same by the officer in charge.

1891, c. 468, s. 5.

4299. Who may become members. Any fireman of good moral character in North Carolina, and belonging to an organized fire company, who will comply with the requisitions of the constitution and by-laws of the North Carolina state firemen's association may become a member of said association, and any organized fire company in North Carolina holding itself ready for duty may, upon compliance with the requisitions of said constitution and by-laws, become a member of said North Carolina state firemen's association.

1891, c. 468, s. 6.

4300. To what firemen applicable. The provisions of this chapter shall apply to any fireman who is a member of a regularly organized fire company.

1891, c. 468, s. 7.

NOTE. Certain state employees entitled to share in fund, see s. 4457.

CHAPTER 96.

GENERAL ASSEMBLY.

	Sections.
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I. APPORTIONMENT.

4301. Of senators. Until another apportionment of the state shall be had in accordance with the terms of the constitution and laws of North Carolina, the senate shall be composed of fifty members, elected from districts constituted as follows:

First District—Camden, Chowan, Currituck, Gates, Hertford, Pasquotank and Perquimans shall elect two senators.

Second District—Beaufort, Dare, Hyde, Martin, Pamlico, Tyrrell and Washington shall elect two senators.

Third District—Bertie and Northampton shall elect one senator.

Fourth District—Halifax shall elect one senator.

Fifth District—Edgecombe shall elect one senator.

Sixth District—Pitt shall elect one senator.

Seventh District—Franklin, Nash and Wilson shall elect two senators.

Eighth District—Carteret, Craven, Greene, Jones, Lenoir and Onslow shall elect two senators.

Ninth District—Wayne shall elect one senator.

Tenth District—Duplin and Pender shall elect one senator.

Eleventh District—Brunswick and New Hanover shall elect one senator.

Twelfth District—Bladen and Columbus shall elect one senator.

Thirteenth District—Robeson shall elect one senator.

Fourteenth District—Cumberland shall elect one senator.

Fifteenth District—Harnett, Johnston and Sampson shall elect two senators.

Sixteenth District—Wake shall elect one senator.

Seventeenth District—Vance and Warren shall elect one senator.

Eighteenth District—Granville and Person shall elect one senator.

Nineteenth District—Alamance, Caswell, Durham and Orange shall elect two senators.

Twentieth District—Rockingham shall elect one senator.

Twenty-first District—Guilford shall elect one senator.

Twenty-second District—Chatham, Moore, Richmond and Scotland shall elect two senators.

Twenty-third District—Montgomery and Randolph shall elect one senator.

Twenty-fourth District—Anson, Davidson, Stanly and Union shall elect two senators.

Twenty-fifth District—Cabarrus and Mecklenburg shall elect two senators.

Twenty-sixth District—Rowan shall elect one senator.

Twenty-seventh District—Forsyth shall elect one Senator.

Twenty-eighth District—Stokes and Surry shall elect one senator.

Twenty-ninth District—Davie, Wilkes and Yadkin shall elect one senator.

Thirtieth District—Iredell shall elect one senator.

Thirty-first District—Catawba and Lincoln shall elect one senator.

Thirty-second District—Gaston shall elect one senator.

Thirty-third District—Cleveland, Henderson, Polk and Rutherford shall elect two senators.

Thirty-fourth District—Alexander, Burke, Caldwell and McDowell shall elect two senators.

Thirty-fifth District—Alleghany, Ashe and Watauga shall elect one senator.

Thirty-sixth District—Madison, Mitchell and Yancey shall elect one senator.

Thirty-seventh District—Buncombe shall elect one senator.

Thirty-eighth District—Haywood, Jackson, Swain and Transylvania shall elect one senator.

Thirty-ninth District—Cherokee, Clay, Graham and Macon shall elect one senator.

Code. s. 2844; 1901. c. 498.

4302. House of representatives. Until the general assembly shall make another apportionment as provided by the constitution and laws of North Carolina, the house of representatives shall be composed of one hundred and twenty members elected from the counties in the following manner, to-wit: The counties of Mecklenburg and Wake shall elect three members each; the counties of Robeson, Guilford, Forsyth, Rockingham, Johnston, Wayne, Rowan, Pitt, Halifax, Cumberland, Iredell, Sampson, Randolph, Gaston, Union, Wilkes, Edgecombe, Beaufort and Buncombe shall elect two members each; the counties of Alamance, Alexander, Alleghany, Anson, Ashe, Bertie, Bladen, Brunswick, Burke, Cabarrus, Cald-

well, Camden, Carteret, Caswell, Catawba, Chatham, Cherokee, Chowan, Clay, Cleveland, Columbus, Craven, Currituck, Dare, Davidson, Davie, Duplin, Durham, Franklin, Gates, Graham, Granville, Greene, Harnett, Haywood, Henderson, Hertford, Hyde, Jackson Jones, Lenoir, Lincoln, McDowell, Macon, Madison, Martin, Mitchell, Montgomery, Moore, Nash, New Hanover, Northampton, Onslow, Orange, Pamlico, Pasquotank, Pender, Perquimans, Person, Polk, Richmond, Rutherford, Scotland, Stanly, Stokes, Surry, Swain, Transylvania, Tyrrell, Vance, Warren, Washington, Watauga, Wilson, Yadkin and Yancey, shall elect one member each.

Code, s. 2845; 1901, c. 379.

II. MEMBERS.

4303. Presiding officers administer oaths, when. The president of the senate is authorized to administer oaths for the qualification of senators and officers of the senate, and the speaker of the house of representatives is authorized to administer oaths for the qualification of all officers of the house and all members who shall appear after the election of speaker.

Code, s. 2855; 1883, c. 19.

4304. Members to convene at appointed time and place. Every person, elected to represent any county or district in the general assembly, shall appear at such time and place as may be appointed for the meeting thereof, on the first day, and attend to the public business as occasion shall require.

Code, s. 2847; R. C., c. 52, s. 27; 1787, c. 277, s. 1.

4305. Penalty for failure to discharge duty. If any member shall fail to appear, or shall neglect to attend to the duties of his office, he shall forfeit and pay for not appearing ten dollars, and two dollars for every day he may be absent from his duties during the session, to be deducted from his pay as a member; but a majority of the members of either house of the general assembly may remit such fines and forfeitures, or any part thereof, where it shall appear that such member has been prevented from attending to his duties by sickness or other sufficient cause.

Code, s. 2848; R. C., c. 52, s. 28; 1787, c. 277, s. 2.

4306. Expelled for buying votes. If any person elected a member of the general assembly shall, by himself or any other person, directly or indirectly, give, or cause to be given, any money, property, reward or present whatsoever, or give, or cause to be given by himself or another, any treat or entertainment of meat or drink, at any public meeting or collection of the people, to any person for

his vote or to influence him in his election, such person shall, on due proof, be expelled from his seat in the general assembly.

Code, s. 2846; R. C., c. 52, s. 24; 1801, c. 580, s. 2.

4307. Protected from arrest; freedom of speech. The members shall have freedom of speech and debate in the general assembly, and shall not be liable to impeachment or question, in any court or place out of the general assembly, for words therein spoken; and shall be protected, except in cases of crime, from all arrest and imprisonment, or attachment of property, during the time of their going to, coming from or attending the general assembly.

Code, s. 2849; R. C., c. 52, s. 29; 1787, c. 277, s. 3.

4308. Monuments for, when. The governor shall have placed at the grave of any member of the general assembly, who may be interred at the city of Raleigh (whose remains are not intended to be removed by his friends), suitable grave-stones, containing the name of the deceased, his age, and the county he represented; and the cost thereof shall be paid by the treasurer, on the warrant of the auditor.

Code, s. 2874; R. C., 1844, c. 52, s. 39; 1883, c. 71.

III. CONTESTS.

4309. Notice of, given. No person shall be allowed to contest the seat of any member of the general assembly unless he shall have given to the member thirty days' notice thereof in writing, prior to the meeting of the general assembly, which must state the particular grounds of such contest. If the seat is contested on account of the reception of illegal votes, the notice must set forth the number of such votes, by whom given, and the supposed disqualifications; and if the same is contested on account of the rejection of legal votes, the notice must give the names of the persons whose votes were rejected. No evidence shall be admitted to show that the contestant received illegal votes, unless he shall also have been notified the same number of days, and in the same manner. The same notice of time and place required in taking depositions shall be required and proved on the investigation.

Code, s. 2850; 1893, c. 192; R. C., c. 52, s. 31; 1796, c. 466, s. 1.

4310. Depositions in, taken, how; penalty on witnesses; what witness must testify to. Any justice of the peace, or any person duly authorized to take depositions to be read before courts, may take depositions to be used on the investigation, and may issue subpoenas for witnesses, which shall be executed by any officer authorized to execute process. And if any witness shall fail to ap-

pear and give his deposition according to the subpoena, he shall forfeit and pay to the party causing him to be summoned, forty dollars. And on such investigation no witness in this, or in the case of any other contested election, shall be excused from discovering whether he voted at such election, or his qualification to vote, except as to his conviction for any offense which would disqualify him. And if he was not a qualified voter, he shall be compelled to discover for whom he voted; but any witness making such discovery shall not be subject to criminal or penal prosecution for having voted at such election.

Code, s. 2851; R. C., c. 52, s. 32; 1800, c. 557, s. 1; 1868-9, c. 270, s. 12.

IV. REPORTS TO.

4311. Furnished with estimate of expenses of government and necessary rate of taxation. It shall be the duty of the state treasurer to furnish the general assembly, at the commencement of each session, with estimates of the expenses of the state government and the rates of taxation necessary to pay the same for the two years next succeeding the close of the last fiscal year, and with a scheme in the form of a complete revenue bill to sustain such estimates.

Code, s. 2864; 1856-7, c. 30; 1883, c. 60, s. 3.

4311a. From state officers, list of employees and salaries. The governor and all other state officers, the superintendents of the various state institutions, and the superintendents or heads of all institutions or departments of whatever kind that receive funds from the state, either directly or indirectly, shall furnish to each general assembly a full and complete list of the names of superintendents or heads of their respective departments, assistants, secretaries, clerks, laborers and employees of whatever kind, together with the annual or monthly salaries of each, and of any and all compensation of any kind that they may receive. Any state officer, superintendent, head of department or institution, who shall fail or refuse to furnish a full and complete list to the general assembly within ten days after the assembling of the same, shall forfeit and pay to the treasurer of the state the sum of twenty-five dollars for each day of delay in excess of ten days, recoverable by motion in the superior court of Wake county or before a justice of the peace, after twenty days' notice to such defaulting officer.

1893, c. 424.

4312. From institutions and state departments. It shall be the duty of the chief officer of each department of the state and of the boards of directors of all institutions supported in whole or in part by appropriations from the state, to submit to the general assembly,

with their respective reports, bills providing for the support and management of their respective departments; these reports, with those of the other officers of the executive department, shall be submitted to the governor, to be transmitted by him with his message to the general assembly.

Code, s. 2865; R. C., c. 52, s. 33; 1800, c. 557, s. 2.

4313. Printed; number. Three hundred copies of each of such reports and bills, and also of the auditor's report, shall be printed and submitted to the general assembly with the message of the governor; and the governor, if in his opinion the reports made as required in this chapter, are in proper form and contain needful information, may cause to be printed by the public printer five hundred and twenty-five additional copies of each of such reports before the meeting of the general assembly and for its use.

Code, s. 2866; 1881, c. 272, s. 2; 1883, c. 60, s. 5.

NOTE. For number of copies of reports to be printed in public documents, see s. 4909.

V. INVESTIGATING COMMITTEES.

4314. Power of. Any committee of investigation raised either by joint resolution or resolution of either house of the general assembly has full power to send for persons and papers, and, if necessary, to compel attendance and production of papers by attachment or otherwise.

Code, s. 2853; 1868-9, c. 50, s. 1.

4315. Chairman of committees may administer oaths. The chairman of any committee or any person in his presence, and under his directions, shall have power and authority to administer oaths.

Code, s. 2856; 1869-70, c. 5, s. 3.

4316. Pay of witnesses before. Any witness appearing and giving testimony shall be entitled to receive from the person at whose instance he was summoned ten cents for every mile traveling to and from his residence, and ferriage, to be recovered before any justice of the peace upon the certificate of the commissioner.

Code, s. 2860; R. C., c. 52, s. 33; 1800, c. 557, s. 2.

4317. How right to appear before committee obtained. Every person desiring to appear either in person or by attorney to introduce testimony, or to offer argument for or against the passage of an act or resolution, before any committee of either house of the general assembly, shall first make application to such committee, stating in writing his object, the number and names of his witnesses,

and the nature of their testimony. If the committee consider the information likely to be important, or the interest of the applicant to be great, they shall appoint a time and place for hearing the same, with such limitations as may be deemed necessary.

Code, s. 2858; 1868-9, c. 270, s. 10.

4318. Citizen's right to be heard before committees; right denied, may appeal to house. If any committee shall refuse to grant the request of any citizen to be heard before it in a matter touching his interests, he may appeal to the house of which the committee is a part; and if he show good reason for his request the house shall order it to be granted.

Code, s. 2859; 1868-9, c. 270, s. 11.

VI. JOURNALS AND ACTS.

4319. When acts take effect. Acts of the general assembly shall be in force only from and after thirty days after the adjournment of the session in which they shall have passed, unless the commencement of the operation thereof be expressly otherwise directed.

Code, s. 2862; R. C., c. 52, s. 35; 1799, c. 527; 1868-9, c. 270, s. 1.

4320. Notice given of private acts. Any person who may desire the passage of a private law shall give notice of his intention to make application by advertisement in some newspaper of the state which circulates in the county where the applicant resides, or in which such private law will operate; or by advertisement at the door of the courthouse and three other public places in such county, for at least thirty days before the application; and, when any private bill shall be introduced, a copy of such advertisement, with due proof of its having been so published, shall be produced, before the second reading thereof.

Const., Art. II, s. 12; Code, s. 2861; R. C., c. 52, s. 34; 1796, c. 466, s. 2; 1835, c. 15.

4321. Bills to pay teachers' salaries. No bill for the payment of any claim for teachers' salaries shall be introduced in either house of the general assembly unless the claim shall have been approved by the chairman of the county board of education and by the county superintendent, and unless a certificate from the county superintendent stating that the debt was contracted by unavoidable mistake on the part of the teacher and the school committee shall be attached to and accompany the bill when introduced.

1903, c. 435, s. 16.

4322. Journals deposited with secretary of state. The principal clerks of the senate and house of representatives, as soon as may be practicable after the close of each session, shall deposit in the

office of the secretary of state the journals of the general assembly; and the secretary of state shall make and certify copies of any part or entry of said journals, and may take for the copy of each entry made and certified the same fee as for the copy of a grant.

Code, s. 2867; R. C., c. 52, s. 36; 1819, c. 1020.

4323. Journals indexed by clerks. The principal clerks of the two houses of the general assembly shall provide full and complete indexes for the journals of their respective houses.

Code, s. 2868; 1866-7, c. 71; 1881, c. 292.

4324. How enrolled; duties of secretary of state as to. All bills passed by the general assembly shall be enrolled for ratification under the supervision and direction of the secretary of state. All bills so enrolled shall be typewritten, or written with pen and ink, in the discretion of the secretary of state. The secretary of state is authorized to rent a sufficient number of typewriters, and employ a sufficient number of copyists, for the purpose of doing this work. He is further authorized to appoint one chief clerk and such assistants as may be necessary to supervise the enrollment of all bills and resolutions.

1903, c. 5.

4325. Secretary of state to prepare index to acts. The secretary of state shall biennially, at the beginning of each regular session of the general assembly, appoint an assistant, whose duties it shall be to prepare for publication the indexes, side or marginal notes and captions to the acts and resolutions, both public and private, ratified by the general assembly.

1903, c. 3.

4326. Secretary of state to publish captions of acts. The secretary of state, with the aid of said assistant, shall immediately, upon the adjournment of any regular session of the general assembly, publish three thousand captions of all the acts and resolutions ratified at such session and distribute the same among the members of said body.

1903, c. 3, s. 2.

4327. Secretary of state to have laws printed. The secretary of state, within thirty days after the termination of each session of the general assembly, shall cause to be published by the state printer all the laws and joint resolutions passed at such session; and each volume shall contain his certificate that it was printed under his direction from enrolled copies on file in his office. In the printing he shall omit the certificate required to be indorsed upon the original

bills; but he shall insert immediately after the title of each law the word "ratified," adding the day, month and year.

Code, s. 2869; 1868-9, c. 270, s. 14.

VII. EMPLOYEES.

4328. Principal clerk; term of office; duties. The principal clerk of each house of the general assembly shall hold his office for the term of two years, or until another is appointed; shall be present at such time and place as may be fixed for the meeting of the general assembly, and on the first day thereof, and perform the duties of his office.

Code, s. 2870; R. C., c. 52, s. 37; 1846, c. 63.

4329. Temporary doorkeepers, how appointed. The keeper of the capitol (and if there be none, then the secretary of state) shall employ two suitable persons to place the two halls of the general assembly in order and wait upon the members, until doorkeepers can be regularly appointed.

Code, s. 2871; R. C., c. 52, s. 38; 1846, c. 63, s. 5.

4330. Doorkeeper's term of office. The term of office of the doorkeeper of each house shall be two years, or until his successor is appointed.

Code, s. 2863; 1868-9, c. 270, s. 7.

CHAPTER 97.

HEALTH.

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I. STATE BOARD.

4331. How elected. The medical society of the state of North Carolina shall choose from its numbers by ballot four members, and the governor of the state shall appoint five other persons (one of

whom shall be a sanitary engineer) and they shall constitute The North Carolina Board of Health.

Code, s. 2875; 1885, c. 237, s. 1; 1893, c. 214, s. 1; 1879, c. 177, s. 1.

4332. Term of office; vacancies, how filled. The members of the board of health elected by the state medical society shall be chosen to serve six years. Their term of office shall begin immediately upon the expiration of the meeting at which they were elected. Those appointed by the governor shall serve six years, their term of office beginning with the first regular meeting of the board after their appointment. In case of death or resignation the board shall elect new members to fill the unexpired term: Provided, the governor shall fill such vacancies as may occur where he has made appointments.

Code, s. 2877; 1885, c. 237, s. 3; 1893, c. 214, s. 2; 1879, c. 117, s. 3; 1901, c. 245.

4333. Duties of. The board of health shall take cognizance of the health interest of the people of the state, shall make sanitary investigations and inquiries in respect to the people, employing experts when necessary; shall investigate the causes of disease dangerous to the public health, especially epidemics, the sources of mortality, the effect of locations, employments and conditions upon the public health. They shall gather such information upon all these matters for distribution among the people, with the especial purpose of informing them about preventable diseases. They shall be the medical advisers of the state and are herein specially provided for, and shall advise the government in regard to the location, sanitary construction and management of all state institutions, and shall direct the attention of the state to such sanitary matters as in their judgment affect the industries, prosperity, health and lives of the people of the state. They may make an inspection once in each year, and at such other times as they may be requested to do so by the state board of charities, of all public state institutions, including all convict camps under the control of the state's prison, and make a report as to their sanitary condition, with suggestions and recommendations to their respective boards of directors or trustees; and it shall be the duty of the officials in immediate charge of said institutions to furnish all facilities necessary for a thorough inspection. The secretary of the board shall make biennially to the general assembly, through the governor, a report of their work.

Code, s. 2876; 1885, c. 237, s. 2; 1893, c. 214, s. 3; 1879, c. 117, s. 2.

4334. May make regulations for certain towns, when. In times of epidemics of smallpox, yellow fever, typhoid fever, scarlet fever, diphtheria, typhus fever, cholera, the state board of health shall have sanitary jurisdiction in all cities and towns not having regu-

larly organized local boards of health, and are hereby empowered to make all such regulations as they may deem necessary to protect the public health, and may enforce them by suitable penalties.

1893, c. 214, s. 17.

Note. See *infra*, subchapter Inland Quarrantine.

4335. Bulletins of disease issued; rules made to check disease; investigations made; pay of members for. Bulletins of the outbreak of disease dangerous to the public health shall be issued by the state board whenever necessary, and such advice freely disseminated to prevent and check the invasion of disease into any part of the state. It shall also be the duty of the board to inquire into any outbreak of disease by personal visits or by any method the board shall direct. The compensation of members on such duty shall be four dollars a day and all necessary traveling and hotel expenses.

1893, c. 214, s. 26.

4336. Officers of; salary of secretary; pay of members. The state board shall have a president and a secretary, who shall also be treasurer, to be elected from the members composing the board. The president shall serve six years and the secretary-treasurer six years. The secretary-treasurer shall receive such yearly compensation for his services as shall be fixed upon by the board, not to exceed one thousand dollars, but the other members of the board shall receive no pay, except that each member shall receive four dollars a day and necessary traveling and hotel expenses when on actual duty attending the meetings of the board or pursuing special investigations in the state, but when attending important sanitary meetings in other sections, the number of delegates thereto being limited to two, only actual traveling and hotel expenses shall be allowed. These sums shall be paid by the treasurer of the board on authenticated requisition, approved and signed by the president.

Code, ss. 2878, 2881; 1885, c. 237, s. 4; 1893, c. 214, s. 4; 1879, c. 117, ss. 5, 7.

4337. Time of meeting to elect officers. The meeting of the state board of health for the election of officers shall be on the second day of the annual meeting of the medical society of the state of North Carolina in the year one thousand nine hundred and seven, and every six years thereafter, and of the county sanitary committee for the election of a county superintendent of health on the first Monday in May, one thousand nine hundred and seven, and every two years thereafter.

1901, c. 245, s. 4.

4338. Meetings, time of. Special meetings of the state board of health may be called by the president through the secretary. The

regular annual meetings shall be held at the same time and place as the state medical society, at which time the secretary shall submit his annual report.

1893, c. 214, s. 27.

II. AUXILIARY BOARD.

4339. Who composes. There shall be an auxiliary board of health in each county, whose function shall be upon the call of the chairman of the board of county commissioners to advise the county authorities in all matters pertaining to the public health. These boards shall be composed of all registered physicians resident in the county.

1901, c. 245, s. 3.

III. SANITARY COMMITTEE.

4340. How elected; duties; compensation; elect county superintendent. Two physicians shall be selected, one by the chairman of the board of county commissioners and one by the mayor of the county town, who, together with the board of county commissioners, shall constitute the county sanitary committee, of which committee the chairman of the board of county commissioners shall be ex officio chairman. Their term of office shall be conterminous with that of the commissioners with whom they serve, and when on duty they shall receive the same compensation as is received by county commissioners. The county sanitary committee shall have the immediate care and responsibility of the health interests of their county. They shall make such rules and regulations, pay such fees and salaries and impose such penalties as in their judgment may be necessary to protect and advance the public health. They shall elect a registered physician, not a member of the sanitary committee, to serve two years, with the title of county superintendent of health and shall fix his compensation.

1901, c. 245, s. 3.

IV. COUNTY SUPERINTENDENT.

4341. Duties of. The duty of the county superintendent of health shall be to carry out as far as possible such work as may be directed by the county sanitary committee and by the state board of health. He shall always promptly advise the secretary of the state board of health of the unusual prevalence of disease in his county, especially of typhoid fever, scarlet fever, diphtheria, yellow fever, smallpox and cholera. He shall make the medico-legal post-mortem examinations for coroner's inquests, attend the inmates of the home for the aged and infirm, and the prisoners in the jail or convict camp of his county, and make examinations of lunatics for

commitment. He shall be the sanitary inspector of the home and jail, including convict camps of his county, making monthly reports to the board of county commissioners and to the secretary of the state board of health.

1901, c. 245, s. 3.

4342. Compensation. The board of county commissioners shall fix the salary of the county superintendent of health, which shall be paid by the county.

1897, c. 201, s. 1.

4343. Reports monthly statistics; penalty for failure. Monthly returns of vital statistics, upon a plan to be made by the state board of health or their secretary acting under their instructions, shall be made by the county superintendent to the secretary of the state board and a failure to report by the tenth of the month for the preceding month shall subject the delinquent to a fine of one dollar for each day of delinquency, and this amount shall be deducted from the salary of the superintendent by the board of county commissioners on the statement of such delinquency by the secretary of the state board of health; and such secretary is hereby required to notify on the eleventh day of each month the chairman of the board of county commissioners of such delinquency. The county superintendent shall report to the secretary of the state board the presence in his county of any case of smallpox, yellow fever, typhus fever or cholera within twenty-four hours after it has come to his knowledge, and upon failure to make such report within the prescribed time the county commissioners shall deduct five dollars from his salary for each day of delay in reporting.

Code, s. 2882; 1893, c. 214, s. 6; 1885, c. 237, s. 8; 1879, c. 117, s. 7.

4344. Notified of existence of certain diseases; notifies state board. When a physician knows that a person whom he is called to visit is infected with smallpox, diphtheria, scarlet fever, typhus fever, yellow fever or cholera he shall immediately give notice thereof to the health officer or mayor, if the sick person be in a city or incorporated town, otherwise to the county superintendent of health. And it shall be the duty of the said county superintendent, health officer or mayor receiving such notice of the presence of a case of smallpox, yellow fever, typhus fever or cholera within his jurisdiction to communicate the same immediately by mail or telegraph to the secretary of the state board of health.

1893, c. 214, s. 11.

Note. Failure to comply with this section, see Crimes.

4345. Keeps record of disease; notifies schools. The county superintendent of health, or the board of health in the several cities

and towns where organized, otherwise the authorities of said cities or towns, shall cause a record to be kept of all reports received in pursuance of the preceding sections, and such records shall contain the names of all persons who are sick, the localities in which they live, the diseases with which they are affected, together with the date and names of all persons reporting any such cases. The boards of health of cities and towns wherever organized, and where not, the mayors of the same, and in other cases the county superintendent of health, shall give the school committee of the city or town, the principals of private schools and the superintendent of public instruction of the county, when the schools are in session, notice of all such cases of contagious diseases reported to them according to the provisions of this chapter.

1893, c. 214, s. 12.

Note. Violation of this section a misdemeanor, see Crimes.

4346. Nuisances, abated under supervision of. Whenever and wherever a nuisance upon premises shall exist which in the opinion of the county superintendent of health, is dangerous to the public health, it shall be his duty to notify in writing the parties occupying the premises, or the owner, if the premises are not occupied, of its existence, its character and the means of abating it. Upon this notification the parties shall proceed to abate the nuisance: Provided, however, that if the party notified shall make oath or affirmation before a justice of the peace of his or her inability to carry out the directions of the superintendent, it shall be done at the expense of the town, city or county in which the offender lives. In the latter case the limit of the expense chargeable to the city, town or county shall not be more than one hundred dollars in any case: Provided further, that nothing in this section shall be construed to give the superintendent the power to destroy or injure property without a due process of law as now exists for the abatement of nuisances.

1893, c. 214, s. 22.

Note. Violation of this section a misdemeanor, see Crimes.

4347. Vaccination by. On the appearance of a case of smallpox in any neighborhood all due diligence shall be used by the superintendent of health that warning shall be given, and all persons not able to pay shall be vaccinated free of charge by him, and the county superintendent shall vaccinate every person admitted into a public institution, jail, county home, public school, as soon as practicable, unless he is satisfied upon examination that the person is already successfully vaccinated; the money for vaccine to be furnished by the county commissioners. The authorities of any city or town or the sanitary committee of any county, may make such

regulations and provisions for the vaccination of its inhabitants and impose such penalties as they may deem necessary to protect the public health.

1893, c. 214, s. 23; 1901, c. 245, s. 7.

Note. Violation of this section a misdemeanor, see Crimes.

V. PUBLIC PROTECTED.

4348. Householder to disinfect. When a householder knows that a person within his family is sick with either of the diseases enumerated in section forty-three hundred and ninety-four, he shall immediately give notice thereof to the health officer or mayor, if he resides in a city or incorporated town, otherwise to the county superintendent of health, and upon the death or recovery or removal of such person, the rooms occupied and the articles used by him shall be disinfected by such householder in the manner indicated in section forty-three hundred and ninety-four.

1893, c. 214, s. 10.

Note. For violation of this section, see Crimes.

4349. Children kept from school, when. The school committees of public schools, superintendents of graded schools and the principals of private schools shall not allow any pupil to attend the school under their control while any member of the household to which said pupil belongs is sick of either smallpox, diphtheria, measles, scarlet fever, yellow fever, typhus fever or cholera, mumps or itch, or during a period of two weeks after the death, recovery or removal of such sick person; and any pupil coming from such household shall be required to present to the teacher of the school the pupil desires to attend a certificate from the attending physician, city health officer or county superintendent of health of the facts necessary to entitle him to admission in accordance with the above regulations. The instructions in accordance with the provisions of this section given to the teachers of the schools within twenty-four hours after the receipt of each and every notice shall be deemed performance of duty on the part of the school committee.

1893, c. 214, s. 13; 1903, c. 690.

Note. Violation of this section a misdemeanor, see Crimes.

4350. Towns and cities may make rules to protect. The authorities of any city or town, not already authorized in its charter, are hereby authorized to make such regulations, pay such fees and salaries and impose such penalties as in their judgment may be necessary for the protection and the advancement of the health.

1893, c. 214, s. 25.

4351. County commissioners may levy special tax to protect, when. The board of county commissioners of each county is hereby authorized at any time to levy a special tax to be expended under the direction of a committee composed of the chairman of the board of county commissioners and the county superintendent of health for the preservation of the public health.

1893, c. 214, s. 24.

4352. Contingent fund. A contingent fund of five thousand dollars is appropriated, subject to the auditor's warrant, upon the recommendation of the governor, to be expended in pursuance of the provisions of this chapter when rendered necessary by a visitation of cholera or any other pestilential disease.

1893, c. 214, s. 29.

4353. Annual appropriation. For carrying out the provisions of this chapter as to the duties of the state board of health, two thousand dollars, or so much thereof as may be necessary, are hereby annually appropriated, to be paid on requisition to be signed by the secretary and president of the state board of health; and the printing and stationery necessary for the board to be furnished upon requisition upon the state printer. A yearly statement shall be made to the governor of all moneys received and expended in pursuance of this chapter.

1893, c. 214, s. 28.

4354. Powers of local boards, not affected. Nothing in this chapter shall operate as a repeal or abridgement of powers conferred by any special act on any local board of health.

1893, c. 214, s. 30.

4355. Bodies of persons dying of certain diseases, how transported. No railroad corporation or other common carrier or persons shall convey or cause to be conveyed through or from any city, town or county in this state the remains of any person who has died of smallpox, measles, scarlet fever, diphtheria, typhus fever, yellow fever or cholera until such body has been disinfected and encased in such manner as shall be directed by the state board of health, so as to preclude any danger of communicating the disease to others by its transportation; and no local registrar, clerk or health officer or any other person shall give a permit for the removal of such body until he has received from the board of health of the city or from the board of aldermen or town commissioners, the county superintendent of the city, town or county where the death occurred, a certificate stating the cause of death and that the said body has been prepared in the manner set forth in this section; which certificate shall be delivered in duplicate to the agent or person who receives

the body and one copy shall be pasted on the box containing the corpse; said certificate shall be furnished in blank by the transportation company when no local board of health exists. During an epidemic of cholera all common carriers shall so arrange their water-closets as to catch in water-tight receptacles the dejections of all persons using the same and shall disinfect the said dejections in a manner satisfactory to the state board of health before emptying them.

1893, c. 214, s. 16.

4356. Police officers of towns to provide against contagious diseases. When an infectious disease shall be raging in any part of the state or in any part of the United States, the officers of police of any incorporated town, who may have well founded apprehensions that their town is in danger of being visited by such disease, may take such precautionary measures and provide such penalties for the breach of them as may seem necessary and proper, the expense of which they are authorized to defray out of any money at the time in their town treasury; or, if that should not be in a situation to sustain the expense, to borrow such sum as may be necessary to defray the same, and afterwards to raise the amount by tax on the inhabitants of such town, over and above the ordinary taxes levied for the current expenses of the town.

Code, s. 2909; R. C., c. 94, s. 17; 1824, c. 1232, s. 1.

4357. Lots drained; penalty for neglect. Every person, possessed of a lot in any seaport town, which from its low or sunken situation is liable to retain tide, or rain water, or on which cellars or foundations for buildings may be dug (whether a tenement be erected over the same or not), shall during the months of June, July, August, September and October, preserve and keep the said lot, cellars, and foundations dry and free from stagnant or putrid waters and other filth; and any person offending herein shall forfeit and pay five dollars for the use of the town, for every week he shall suffer such stagnant or putrid water, or other filth, to remain therein. And if the said owner shall, notwithstanding the above provisions, neglect to remove such stagnant or putrid water or other filth, the commissioners of the town may employ any person, upon such terms as to them may seem reasonable and just, to remove such filth or stagnant or putrid waters; and the expense shall be considered as a further fine for not complying with this section, and shall be collected accordingly, and shall also be a lien upon the lot upon which the same has been expended.

Code, s. 2908; R. C., c. 94, s. 16; 1815, c. 893, s. 2.

4358. Nuisances in seaport towns, what are. All ponds of stagnant water, all cellars and foundations of houses, whose bottoms contain stagnant and putrid water; all dead and putrefied animals lying about the docks, streets, lanes, alleys, vacant lots, or yards; all privies that have no wells sunk under them; all slaughter-houses, all docks whose bottoms are alternately wet and dry by the ebbing and flowing of the tide, all accumulations of vegetable and animal substances undergoing putrefactive fermentation, in any of the seaport towns of the state, are declared common nuisances, productive of offensive vapors and noxious exhalations, the causes of disease, and ought to be restrained, regulated and removed.

Code, s. 2907; R. C., c. 94, s. 15; 1815, c. 893, s. 1.

VI. DENTISTRY.

4359. Board of examiners, how elected. The board of examiners for the examination of those desiring to obtain a certificate to engage in the practice of dentistry shall consist of six members of the North Carolina dental society, to be elected by the said society at its next annual meeting and shall hold office as follows: Two for one year, two for two years, and two for three years, and until their successors are elected. The said board shall also have power to fill all vacancies for unexpired terms, and they shall be responsible to said state society for their acts.

Code, s. 3149; 1879, c. 139, s. 2.

4360. Meetings of the board. The board of examiners shall meet annually at the time and place of the meeting of the North Carolina dental society, and at such other times and places as the said board, or any four members thereof, shall agree upon to conduct the examination of applicants, thirty days' notice of said meeting being given by advertising in at least three newspapers published in this state.

Code, s. 3150; 1879, c. 139, s. 3.

4361. Quorum. Four members of said board shall constitute a quorum for the transaction of business, and should a quorum not be present on the day appointed for the meeting of said board, those present may adjourn from day to day until a quorum is present.

Code, s. 3153; 1879, c. 139, s. 6.

4362. Board to keep record of those licensed. Such board shall keep a book in which shall be entered the names and proficiency of all persons to whom certificates may be granted under this chapter, and the date of granting such certificate, and the book so provided shall be deemed a book of record, and a transcript of any such entry

therein, certified to under the hand of the secretary and seal of the North Carolina dental society, shall be admitted as evidence in any court when the same shall be otherwise competent.

Code, s. 3152; 1879, c. 139, s. 5.

4363. Board grants certificates to practice, when. Such board shall grant a certificate of proficiency in the knowledge and practice of dentistry to all applicants who shall undergo a satisfactory examination, and who shall receive a majority of votes of said board upon such proficiency, which certificate shall be signed by the members of the board conducting said examination, and shall bear the seal of the said North Carolina dental society: Provided, any person wishing to engage in the practice of dentistry at any time prior to the regular meeting of said board may be examined by any one member of said board, and if competent may receive a temporary certificate, which shall be in force only until the next regular meeting, and no member of said board shall grant a temporary certificate a second time to the same person.

Code, s. 3151; 1879, c. 139, s. 4.

4364. Must obtain license to practice. No person shall engage in the practice of dentistry who has not graduated at a reputable dental school and who has not obtained a certificate from a board of examiners duly authorized and appointed in accordance with this chapter. The certificate shall be registered in the office of the clerk of the superior court of the county in which such person proposes to practice. The failure on the part of any person holding such certificate to register the same as above directed for a period of six months shall work a forfeiture of the certificate; no certificate when once forfeited shall be restored, except upon the payment to said board of examiners of the sum of twenty-five dollars as a penalty for such failure; such penalty to go to the school fund of the county. The clerk's fee for recording such certificate shall be fifty cents.

Code, ss. 3148, 3155; 1887, c. 178, ss. 1, 2; 1891, c. 251; 1879, c. 139, ss. 1, 8.

4365. Fees charged for license. In order to provide means for carrying out and maintaining the provisions of this chapter such board of examiners may charge a fee of ten dollars for each person applying for a certificate, temporary or permanent, which in no case shall be returned, and the funds so derived shall be placed in the hands of the secretary to be used in defraying the necessary expenses in conducting the meetings of said board, and under no circumstances shall any part of such expense come out of the treasury of the state.

1887, c. 178, s. 3.

4366. Certain persons exempted. This chapter shall not apply to any person who was engaged in the practice of dentistry in this

state before the seventh day of March, one thousand eight hundred and seventy-nine, if on or before the twenty-fifth day of February, one thousand eight hundred and ninety, such person filed a verified statement with the secretary of the board of examiners appointed by the state dental association showing his name, residence, date of diploma or license, and date of commencing the practice of dentistry. This subchapter shall not prevent any one from extracting teeth.

Code, s. 3156; 1887, c. 179, ss. 4, 5; 1889, c. 228; 1879, c. 139, s. 9.

VII. PHARMACEUTISTS.

4367. Association incorporated. The North Carolina pharmaceutical association, and the persons composing the same, shall continue to be a body politic and corporate under the name and style of the North Carolina Pharmaceutical Association, and by said name shall have the right to sue and be sued, to plead and be impleaded, to purchase and hold real estate and grant the same, to have and to use a common seal, and to do such other things and perform such other acts as appertain to bodies corporate and politic not inconsistent with the constitution and laws of the state.

Code, s. 3135; 1881, c. 355, s. 1.

4368. Object of association. The object of said association is to unite the pharmacists and druggists of this state for mutual aid, encouragement and improvement, to encourage scientific research, develop pharmaceutical talent, to elevate the standard of professional thought, and ultimately restrict the practice of pharmacy to properly qualified druggists and apothecaries.

Code, s. 3136; 1881, c. 355, s. 2.

4369. Qualification of membership. Any person, in order to be licensed, shall be a graduate of some college of pharmacy, recognized by the board of pharmacy, or shall have had three years' practical experience in the preparation of physicians' prescriptions, and in compounding and vending medicines and poisons, or shall be a licentiate of the board of pharmacy of North Carolina, or one who is or has been a regular practicing-physician as hereinafter provided.

Code, s. 3138; 1891, c. 24, s. 1; 1897, c. 182, s. 1.

4370. Qualification for membership from experience. Pharmacists claiming the right to be licensed under the preceding section, on account of practical experience, shall, within ninety days, show to the satisfaction of the board of pharmacy, created by this chapter, that they have had three years' practical experience in the preparation of physicians' prescriptions, and in compounding and

vending medicines and poisons. Licentiates in pharmacy must have had three years' experience in stores where prescriptions of medical practitioners have been prepared, and shall have passed an examination before the board of pharmacy. The board of pharmacy may license, without further examination, the licentiates of such other boards of pharmacy as they may deem proper.

Code, s. 3139; 1891, c. 24, s. 2; 1897, c. 182, s. 3.

4371. Registered, only to conduct business. No person, unless a licensed pharmacist within the meaning of this chapter, except as hereinafter provided, shall open or conduct any pharmacy or store for retailing, dispensing or compounding medicines or poisons, nor shall any one not a licensed pharmacist prepare physicians' prescriptions, except under the supervision of a licensed pharmacist. Nothing herein shall prevent the sale of patent or proprietary medicines, quinine, epsom salts, castor oil, essence of peppermint, paregoric, laudanum in original package, calomel, camphor, or sweet oil.

Code, s. 3137; 1881, c. 355, s. 3; 1897, c. 182, s. 1.

4372. Responsible for quality of drugs sold. Every person shall be held responsible for the quality of all drugs, chemicals and medicines he may sell or dispense, with the exception of those sold in the original packages of the manufacturers, and also those known as "patent medicines;" and should he intentionally adulterate or cause to be adulterated, or expose to sale knowing the same to be adulterated, any drugs, chemicals or medical preparations, he shall be guilty of a misdemeanor, and liable to a penalty not exceeding one hundred dollars, and in addition thereto his name shall be stricken from the book of licentiates. Every licensed pharmacist who desires to continue the practice of his profession, shall annually thereafter, within thirty days preceding the annual meeting of the board of pharmacy, pay to the secretary of said board a license fee of one dollar, for which he shall receive a renewal of said license.

Code, s. 3142; 1897, c. 182, s. 6; 1881, c. 355, s. 8.

See also, s. 3422.

4373. State board, how elected; term of office. The state board of pharmacy shall consist of five members, and the North Carolina pharmaceutical association shall annually elect a pharmacist from their number to fill the vacancy annually occurring in said board. Said pharmacist so elected shall be commissioned by the governor and hold office for the term of five years and until his successor has been duly elected and qualified. In case of death, resignation or removal from the state of any member of said board of pharmacy the said board shall elect in his place a pharmacist, who is a mem-

ber of said association, to serve as a member of the board for the remainder of the term.

Code, s. 3146; 1891, c. 24, s. 5.

4374. Board of pharmacy; duties of; term of office; elected, how; examinations by. The board of pharmacy is empowered to transact all business relating to the legal practice of pharmacy; to examine into and adjudicate upon all cases of abuse, fraud, adulteration, substitution or malpractice, and to enforce all the provisions of the law, and to render an annual account to the proper state authorities and to the association. Any one examined by the board shall pay a fee of five dollars. In case of failure to pass a satisfactory examination, he shall be granted a second examination without the payment of a further fee. It shall be the duty of the members of the board, after receipt of notification of their appointment, to appear before the clerk of the superior court of the county in which they individually reside, and make and subscribe to an oath properly and faithfully to discharge the duties of their office, and within thirty days thereafter meet and organize by the election of a president, secretary and treasurer of said board. The secretary and treasurer shall each be elected to serve for the term of five years, and the term of office of the other members shall be determined by lot. The board shall hold meetings at least once annually or oftener as the business of the board may require. The secretary shall give each member of the board not less than ten days' notice of each meeting. Three members shall constitute a quorum. It shall be the duty of the board to examine all persons applying for examination in proper form, and to license such as shall establish their rights to be licensed. The secretary and treasurer of said board shall be a bonded officer held in bond of one thousand dollars to be made to the said North Carolina pharmaceutical association and approved by the executive committee of said association.

Code, s. 3140; 1891, c. 24, s. 3; 1897, c. 182, s. 4; 1881, c. 355, s. 6.

4375. Members of board, pay of; secretary, duty of; pay of. It shall be the duty of the secretary to the board of pharmacy to keep a book of licentiates at some convenient place, of which due notice shall be given through the public press, in which shall be entered under the supervision of the board the names and places of business of all persons coming under the provisions of this chapter, and a statement to be signed by the person making the application of such facts in the case as he may claim to justify his application. The fee for the licensing of proprietors shall not exceed two dollars, and for those in the employ of others shall not exceed one dollar. The secretary shall give receipts for all moneys received by him, which moneys shall be used for the purpose of defraying the expenses of

the board of pharmacy, and any surplus shall be for the benefit of said association. The salary of the secretary shall be fixed by the board, and shall be paid out of the fees for examination and license. Each member of the board of pharmacy shall be paid the sum of five dollars for every day during which he is engaged in the service of the board and all necessary expenses incurred in attending the meetings of the same. It shall be the duty of the board to investigate all complaints of disregard, noncompliance or violation of this chapter and to bring the same to the notice of the proper prosecuting officer whenever there appears to the board reasonable grounds of complaint. The board is empowered to make such rules and regulations as it shall find necessary for carrying into effect this law not inconsistent with the purpose and spirit of the same.

Code, s. 3141; 1891, c. 24, s. 4; 1897, c. 182, s. 5; 1881, c. 355, s. 7.

4376. Physicians in towns of less than five hundred. Practicing physicians in towns of less than five hundred may act as pharmacutists in said towns, under this chapter, without obtaining license.

1897, c. 182, s. 8.

VIII. MEDICINE.

4377. Medical society incorporated. The association of regularly graduated physicians, calling themselves the state medical society, is hereby declared to be a body politic and corporate, to be known and distinguished by the name of The Medical Society of the State of North Carolina.

Code, s. 3121; 1858-9, c. 258, s. 1.

4378. Board of examiners. In order to the proper regulation of the practice of medicine and surgery, there shall be established a board of regularly graduated physicians, to be known by the title of The Board of Medical Examiners of the State of North Carolina, which shall consist of seven regularly graduated physicians.

Code, s. 3123; 1858-9, c. 258, ss. 3, 4.

4379. Medical society appoints examiners. The medical society shall have power to appoint the board of medical examiners.

Code, s. 3126; 1858-9, c. 258, s. 9.

4380. Board of examiners to elect officers. The board of medical examiners are authorized to elect all such officers, and to frame all such by-laws as may be necessary, and in the event of any vacancy by death, resignation or otherwise, of any member of said board, the board, or a quorum thereof, is empowered to fill such vacancy.

Code, s. 3128; 1858-9, c. 258, s. 11.

4381. Board of examiners, meetings of. The board of medical examiners shall assemble at the same time and place when and where the medical society assembles, which society shall assemble at least once in every year at such time and place as the said society at its next preceding meeting shall have fixed; and the said board shall remain in session from day to day until all applicants who may present themselves for examination within the first five days after its meeting shall have been examined and disposed of: Provided, that the board may, in its discretion, meet not more than one week before the said society, but always in the same place; and that one additional meeting in each year may be held at some suitable point in the state, if deemed advisable.

Code, s. 3127; 1899, c. 93, s. 3; 1870-1, c. . . , s. 11.

4382. Compensation of board. The members of the said board shall each receive as a compensation for their services four dollars per day during the time of their session and in addition thereto their traveling expenses to and from their places of meeting by the most direct route from their respective places of residence, to be paid by the secretary of the board out of any moneys in his hands, upon the certificate of the president of the board of medical examiners.

Code, s. 3131; 1870-1, c. . . , s. 14.

4383. Secretary of board. The secretary of the board of medical examiners shall give bond with good surety, to the president of the board, for the safe-keeping and proper payment of all moneys that may come into his hands.

Code, s. 3134; 1858-9, c. 258, s. 17.

4384. Applicants for license examined. It shall be the duty of the said board to examine all applicants who shall exhibit a diploma, or furnish satisfactory proof of graduation from a medical college in good standing requiring an attendance of not less than three years and supplying such facilities for clinical instruction as shall meet the approval of the said board, for license to practice medicine or surgery, or any of the branches thereof, on the following branches of medical science: Anatomy, physiology, surgery, pathology, medical hygiene, chemistry, pharmacy, materia medica, therapeutics, obstetrics and the practice of medicine, and if on such examination they be found competent, to grant to each applicant a license or diploma, authorizing him to practice medicine and surgery, or any of the branches thereof. Five members of the board shall constitute a quorum and four of those present shall be agreed as to the qualification of the applicant: Provided, that the requirement of three years' attendance at school shall not apply to those graduating prior

to January first, nineteen hundred: Provided further, that license or other satisfactory evidence of standing as a legal practitioner in another state shall be accepted in lieu of a diploma and entitle to examination.

Code, s. 3124; 1858-9, c. 258, s. 5; 1899, c. 93, s. 1.

4385. Temporary license. To prevent delay and inconvenience, two members of the board of medical examiners may grant a temporary license to any applicant who shall comply with the requirements as to graduation prescribed in the preceding section, and make report thereof to the next regular meeting of the board: Provided, such temporary license shall not continue in force longer than the next regular meeting of the board, and such temporary license shall in no case be granted after the applicant has been refused a license by the board of medical examiners.

Code, s. 3125; 1858-9, c. 258, s. 7; 1889, c. 181, s. 3; 1899, c. 93, s. 2.

4386. Board of examiners to keep a record. The board of examiners shall keep a regular record of its proceedings in a book kept for that purpose, which shall always be open for inspection, and shall cause to be entered in a book kept for that purpose the name of each applicant for license, and the name of each applicant licensed to practice medicine and surgery, and the time of granting the same, together with the names of the members of the board present, and shall publish the names of those licensed in two of the newspapers published in the city of Raleigh, within thirty days after the granting of the same.

Code, s. 3129; 1858-9, c. 258, s. 12.

4387. License fee. The board shall have power to demand of every applicant thus licensed the sum of ten dollars before issuing a license or diploma, and the sum of five dollars for each temporary license, to be paid to the secretary of the board.

Code, s. 3130; 1858-9, c. 258, s. 13.

4388. Not to practice without license. No person shall practice medicine or surgery, nor any of the branches thereof, nor in any case prescribe for the cure of diseases for fee or reward, unless he shall have been first licensed and registered so to do in the manner provided in this chapter, and if any person shall practice medicine or surgery without being duly licensed and registered as provided in this chapter, he shall not be allowed to maintain any action to collect any fee for such services.

Code, s. 3122; 1858-9, c. 258, s. 2.

4389. Board may rescind license. The said board shall have the power to rescind any license granted by them when upon satisfac-

tory proof it shall appear that any physician thus licensed has been guilty of grossly immoral conduct.

Code, s. 3133; 1858-9, c. 258, s. 16.

4390. Must be registered before practicing. Any person desiring to begin or engage in the practice of medicine or surgery shall personally appear before the clerk of the superior court of the county in which he resides or practices, for registration as a physician or surgeon. The person so applying shall produce and exhibit before the clerk of the superior court a license obtained from the board of medical examiners of the state, or a diploma issued by a regular medical college prior to the seventh day of March, one thousand eight hundred and eighty-five, or make oath that he was practicing medicine or surgery in this state prior to said seventh day of March, one thousand eight hundred and eighty-five, and upon such exhibit or oath being made as aforesaid, the clerk shall register the date of registration, with the name and residence of such applicant, in a book to be kept for this purpose in his office, marked "Register of Physicians and Surgeons," and shall issue to him a certificate of such registration under the seal of the superior court of the county upon the form furnished him by the medical society of North Carolina, for which the clerk shall be entitled to collect from said applicant a fee of twenty-five cents. The person obtaining said certificate shall be entitled to practice medicine or surgery, or both, in the county where the same was obtained, and in any other county in this state; but if he shall remove his residence to another county he shall exhibit said certificate to the clerk of such other county and be registered, which registration shall be made by said clerk without fee or charge: Provided, that any one having obtained a temporary license, as provided in section four thousand three hundred and eighty-five, shall not be entitled to register, but may practice during the time such license shall remain in force.

1889, c. 181, s. 4; 1891, c. 420; 1899, c. 93, s. 4.

4391. Blanks furnished to clerks. It shall be the duty of the medical society of the state of North Carolina to prescribe a proper form of certificates required by this subchapter, and all such blanks and forms as the clerk may need to enable him to perform his duties under this chapter.

1889, c. 181, s. 7; 1899, c. 93, s. 4.

IX. INLAND QUARANTINE.

4392. Inspectors appointed, when; residents of other states compelled to return, when. The board of health, or in case there is no board of health, the board of aldermen or town commissioners of

a city or town or the sanitary committee of a county near to or bordering upon either of the neighboring states, may appoint, by writing, suitable persons to attend at places by which travelers may pass from infected places in other states, who may examine such travelers as may be suspected of bringing any infection dangerous to the public health, and if it need be, may restrain them from traveling until licensed thereto by the board of health or board of aldermen or town commissioners of the city or town to which they may come. A traveler coming from such infected place who, without such license, travels within this state, except to return by the most direct route to the state whence he came, after he has been cautioned to depart by the persons so appointed, shall be isolated or ejected, at the discretion of the local city or town board of health, or county sanitary committee. And all common carriers bringing into this state any such persons as named above are hereby required to return them to some point without this state, if required by a city, town board of health or county sanitary committee. Nothing in this section shall prevent the state board of health in time of epidemics from appointing such additional examiners as they may deem necessary to the preservation of the public health.

1893, c. 214, s. 15; 1901, c. 245, s. 6.

Note. Violation of this section a misdemeanor, see Crimes.

4393. When person quarantined. When a person coming to a city or a town from abroad or from some other place in this state which is infected or has lately been infected with either of the diseases mentioned in section forty-three hundred and ninety-four, the local board of health where such exists, otherwise the board of aldermen or board of town commissioners, or county sanitary committee, shall make effective provision in the manner which it judges best for the safety of the inhabitants by removing such person to a separate house or otherwise, and by providing nurses and other assistance and necessaries, which shall be at the charge of the person himself or his parents, where able, otherwise at the charge of the city, town or county to which he belongs.

1893, c. 214, s. 14; 1901, c. 245, s. 5.

4394. Under control of county superintendent. Inland quarantine shall be under the control of the county superintendent of health, who shall see that diseases, especially dangerous to the public health, viz.: Smallpox, diphtheria, scarlet fever, yellow fever, typhus fever and cholera, are properly quarantined and isolated within twenty-four hours after the case is brought to his knowledge; and that after the death or recovery or removal of a person sick of either of the diseases mentioned, the rooms occupied and the articles used by the patient are thoroughly disinfected in the manner set

forth in the printed instructions, both as to quarantine and disinfection, which shall be furnished him by the secretary of the state board of health. The expense of the quarantine and of the disinfection shall be borne by the householder in whose family the case occurs, if able, otherwise by the city, town or county of which he is a resident. The failure on the part of a county superintendent of health to perform the duties imposed in this section shall be punished by the deduction of five dollars for each day of delinquency from his salary by the board of county commissioners; and if it shall appear to the satisfaction of the county board of health that the death of any person from the spread of the disease can justly be attributed to such failure of duty on his part, he shall be deposed from office and a successor immediately elected to fill out his unexpired term: Provided, that the quarantine of ports shall not be interfered with, but the officers of the local and state boards shall render all aid in their power to quarantine officers in the discharge of their duties upon the request of the latter: Provided further, that any child or other person may remain in custody and care of parent or family.

Code, s. 2883; 1893, c. 214, s. 9; 1885, c. 237, s. 9; 1879, c. 117, s. 9.

4395. In cities having health officer. In any city or incorporated town having a regularly appointed medical health officer who is a member of the county board of health, the duties assigned in the preceding section to the county superintendent of health shall be performed by such medical health officer for the people of his city or town, and he shall be subject to the same penalties for dereliction of duty at the hands of the board of aldermen or town commissioners as are directed to be imposed by the county commissioners and county board of health upon the superintendent.

1893, c. 214, s. 9.

X. QUARANTINE.

4396. Who may control. The commissioners of navigation in the respective ports and inlets of the state, the board of health, or the commissioners of any seaport town, or the sanitary committee of any county, may appoint such place or places as they may think proper for vessels to perform quarantine; and when a vessel shall arrive at any port or inlet of this state, having an infectious distemper on board, or shall come from any place or port which at the time of her sailing, or shortly before was infected with any malignant disorder, the master and pilot of such vessel shall anchor her at the place so appointed, and give immediate information thereof to the superintendent of health of the county in which such port is situated or to the health officer of such town, who shall thereupon cause such vessel and her crew to be examined by the superintendent

of health of the county, who shall have power to order and command the master of the vessel, crew and passengers to perform such quarantine as by him shall be deemed most proper and reasonable to check or prevent any infectious distemper from spreading in this state, and to require every person on board such vessel strictly to perform quarantine, and to obey the orders given by the authority of such superintendent of health respecting the victualling, purifying and cleansing of such vessel and all articles on board, and to regulate and control the intercourse of such persons with the inhabitants of the state, the receiving any person on board or the putting them on shore; and if any pilot or master neglect to give such information as above required, the pilot for such neglect shall forfeit and pay one hundred dollars, and the master for a like neglect shall forfeit and pay two hundred dollars. In case the master of any vessel ordered to perform quarantine should refuse to comply with or fail to fulfill the orders for performing quarantine with his vessel, he shall forfeit and pay two hundred dollars for each day he shall fail to perform the quarantine. The property of the captain, together with the vessel and cargo, whether owned by the captain or not, shall be liable for the penalty herein imposed. If there be at the port where the vessel enters a port physician, as provided for in this subchapter, he shall perform the duties and have all the power by this section conferred upon the superintendent of health. The state authorities shall co-operate in all matters of quarantine with the federal authorities.

Code, s. 2893; R. C., c. 94, s. 1; 1783, c. 194, s. 12; 1793, c. 379, s. 1; 1802, c. 624.

4397. Vessels from infected ports to anchor at quarantine. If any vessel shall be brought into the state from a place which at the time of her departure was infected with the yellow fever, smallpox, or other infectious disorder; or if any vessel, arriving in the state, shall have the smallpox or yellow fever or other infectious disorder on board, or shall have had such disorder on board, during her passage to the state, such vessel shall be anchored at the place appointed for quarantine, and there remain, until permitted to remove by the commissioners of navigation, or by the commissioners of the town to which the vessel is bound, or by the superintendent of health.

Code, s. 2894; R. C., c. 94, s. 2; 1817, c. 946, s. 1.

4398. Pilots to bring vessels to station; penalty. It shall be the duty of all pilots to bring vessels to the visiting station, as they may be required from time to time by the quarantine officer, and they shall not take any vessel subject to quarantine or visitation, past the station, until released by the quarantine officer, and any pilot who shall wilfully violate any quarantine regulation shall for-

feit his branch or commission, and thence be incapable to act as a pilot in any port in the state.

Code, s. 2917; 1868, c. 33, s. 6.

4399. Pilots bringing in vessels without certificates; penalty.

If any pilot shall bring any vessel beyond the place fixed and limited by the commissioners of navigation, without a certificate of the health officer declaring that there is no danger to be apprehended from any infectious disease on board said vessel, such pilot shall forfeit his branch or commission, and thence be incapable to act as a pilot in any port of the state.

Code, s. 2904; R. C., c. 94, s. 12; 1797, c. 486, s. 2.

4400. Master compelled to declare state of health of crew.

The said commissioners or superintendent of health may, whenever they think proper, require the master of a vessel, on his arrival in the state, to declare on oath the state of the health of himself, crew and passengers, and the place whence he came. And if any master shall give a false declaration, or any physician shall wilfully give a false certificate of the health of the persons on board any such vessel, he shall forfeit and pay two thousand dollars.

Code, s. 2901; R. C., c. 94, s. 9; 1793, c. 379, s. 6.

4401. Vessel removed to. The commissioners of navigation, or the commissioners of the town, in the harbor of which any vessel shall have arrived in violation of this chapter, or the superintendent of health as aforesaid, may use such force as shall be necessary to remove said vessel to the place of quarantine; their reasonable charge for which service shall be paid by the master or owner of the vessel, and may be recovered of either of them before any court having jurisdiction.

Code, s. 2895; R. C., c. 94, s. 3; 1817, c. 946, s. 2.

4402. Vessel furnished with provisions. The commissioners or justices are empowered and directed to furnish any vessel, ordered to ride quarantine, with a sufficient quantity of good wholesome provisions, for the expense of which the master, vessel and cargo shall be liable.

Code, s. 2902; R. C., c. 94, s. 10; 1793, c. 379, s. 7.

4403. Port physicians, how appointed. The commissioners of navigation in the several ports of the state, and, where there are no such commissioners, the commissioners of the several seaport towns, may appoint port physicians, and regulate and prescribe the fees to which they shall be respectively entitled, according to the different quarantine stations, which they shall be bound to attend for the purpose of inspecting vessels, as required by this chapter, and

giving certificates of their situation and condition, in regard to the health of their respective crews and passengers.

Code, s. 2896; R. C., c. 94, s. 3; 1817, c. 946, s. 2.

4404. Persons going on vessel in; penalty. When any vessel shall be directed to perform quarantine, and any person knowing of such order, by the information of the master or otherwise, shall go on board of such vessel without permission of the commissioners or superintendent of health aforesaid, every such person shall forfeit and pay one hundred dollars. And if any person shall be permitted by the master to come on board, without informing him of the order and directions of the commissioners or superintendent of health, the master shall forfeit and pay two hundred dollars for every person so offending, and four hundred dollars for suffering any person so on board to depart his vessel without leave of the commissioners or superintendent of health aforesaid; and the said commissioners or superintendent of health are empowered to order every person who shall go on board any such vessel to remain there for such length of time as they may think proper; and if he disobey such order, he shall pay one hundred dollars.

Code, s. 2898; R. C., c. 94, s. 6; 1793, c. 379, s. 3.

4405. Landing goods from vessels in; penalty. If any master of a vessel ordered to ride quarantine shall convey, or cause, or permit to be conveyed, any article of goods, wares and merchandise from his vessel on any other lands, or into any other boat or vessel that the said commissioners or superintendent of health shall authorize, he shall forfeit and pay two hundred dollars for every such offense. And any other person so conveying, or causing to be conveyed, any article as above mentioned, shall be liable to the like penalty.

Code, s. 2900; R. C., c. 94, s. 8; 1793, c. 379, s. 5.

4406. Person breaking, returned to. The commissioners or superintendent of health, respectively, may issue their warrant to any sheriff or other officer, commanding him to take the body of any person that may have left any vessel ordered to ride quarantine, and carry him on board of said vessel; and the said officer may summon such persons to assist him in the execution of the warrant as he may see fit.

Code, s. 2899; R. C., c. 94, s. 7; 1793, c. 379, s. 4.

4407. Penalty for breaking. When a vessel shall be directed to perform quarantine, and any seaman or passenger shall, contrary to the order and direction of the commissioners or superintendent of health, leave the vessel and land on any other place than they shall

allow of, every person offending shall forfeit and pay two hundred dollars for each offense; and when he shall have left the vessel with the master's consent, the master shall pay a like penalty of two hundred dollars for every such offense of any of his passengers or seamen.

Code, s. 2897; R. C., c. 94, s. 5; 1793, c. 379, s. 2.

4408. Fees charged on vessels. Every vessel subject to visit and inspection shall pay a fee of five dollars, if of less than two hundred and fifty tons burthen; if of more than two hundred and fifty and less than five hundred tons burthen, eight dollars; if of more than five hundred and less than one thousand tons burthen, ten dollars; if over one thousand tons, fifteen dollars, which shall be collected and accounted for by the medical officer, as provided for in this chapter, and every person taken to the hospital shall pay a fee not exceeding three dollars per day, until discharged by the medical officer, for the payment of which the vessel shall be responsible, and only such vessel shall be subject to visit and inspection as may be from ports designated, from time to time, by the medical officer, except that all vessels having sickness on board shall be brought to the visiting station for examination.

Code, s. 2916; 1868, c. 33, s. 5; 1891, c. 533.

4409. Penalty on master of vessel refusing to obey regulations. Any master of a vessel who shall refuse to obey the quarantine regulations, shall forfeit and pay a fine of two hundred dollars for each day he shall refuse to obey the same, for which forfeiture the property of the captain, together with the vessel and cargo, shall be held responsible.

Code, s. 2918; 1868, c. 33, s. 7.

4410. Penalty for violating regulations. Any person who shall violate the quarantine regulations, as prescribed from time to time, by the medical officers, shall forfeit and pay the sum of two hundred dollars for each offense; and all penalties and forfeitures imposed by this chapter, may be recovered before any court having jurisdiction, one-half to the informer, the other half to the payment of the expenses of the quarantine establishment.

Code, s. 2919; 1868, c. 33, s. 8.

4411. Quarantine officer may issue warrants. The quarantine medical officer may issue a warrant to any sheriff or other officer, commanding him to arrest the body of any person violating the quarantine, and have him without delay before some competent jurisdiction for trial.

Code, s. 2920; 1868, c. 33, s. 9.

4412. Station at Cape Fear river; pay of officer. For the preservation of the public health there shall be established opposite Deep-water Point, near the mouth of the Cape Fear river, a quarantine station, where all vessels subject to quarantine shall be brought to anchor, and await the inspection of the medical officer, and be subject to such rules and regulations as he may prescribe; and the rules and regulations so prescribed shall be made from time to time as circumstances may require by the quarantine medical officer and two physicians of skill and experience, residing in the city of Wilmington, who shall be designated by the president of the state board of health, and they shall meet annually on the first Monday in May, or as soon thereafter as practicable, and organize for the purposes before mentioned by the election of a president and secretary; and it shall be the duty of the president to call meetings whenever any special emergency shall arise requiring new quarantine rules and regulations, and of the secretary to keep a record of all such proceedings; and they shall be entitled to compensation for their services at the rate of one hundred dollars per year.

Code, s. 2912; 1889, c. 521; 1868, c. 33, s. 1; 1879, c. 123.

4413. Governor appoints officer for station. It shall be the duty of the governor to designate some physician of experience, who shall act as medical quarantine officer for the station, referred to in the preceding section, and who shall prescribe such regulations as may be necessary for the protection of the inhabitants from infectious diseases, and all persons shall be bound by such regulations, under penalties to be hereafter designated. The quarantine officer shall duly advertise all quarantine regulations and cause the pilots to be especially notified of them. He shall make a monthly report of all receipts and disbursements, and shall pay over all moneys to the treasurer of the state, and shall be removable at the pleasure of the governor.

Code, s. 2913; 1868, c. 33, s. 2.

4414. Compensation of officer and crew of boat. The compensation of the quarantine medical officer on the Cape Fear river shall be six hundred dollars per year, and the compensation of the boat's crew shall be thirty dollars per month each, while regularly employed: Provided, one of the crew may be designated by the quarantine officer to take care of the buildings, boats and materials at an extra compensation of ten dollars per month while so employed.

Code, s. 2921; 1889, c. 521, s. 4; 1868, c. 33, s. 10.

4415. Officer furnished with boat and crew. There shall be provided for the use of the quarantine officer on the Cape Fear river a suitable boat furnished with all necessary materials, and he

shall employ a crew of four men, at such seasons as quarantine regulations are in force, or when the public health may require it. He shall cause the boat to be kept in repair and always ready for service, and may employ some competent person for the service; who shall be paid by the state treasurer, on the certificate of the medical officer, that the services were necessary and the charges just and reasonable.

Code, s. 2914; 1868, c. 33, s. 3.

4416. Station on Cape Fear to be established. There shall be established, at the nearest suitable site, opposite the present quarantine anchorage at Deepwater Point, a station to be known and designated as 'The North Carolina Station for Maritime Sanitation.' For the purpose of selecting a suitable site, the quarantine board, the chairman of the board of commissioners of navigation and pilotage of the port of Wilmington and the mayor of Southport shall constitute a board, who shall acquire by purchase, or otherwise, sufficient land and water privileges for the purpose—the title to which shall be vested in the quarantine board and their successors in office, who are hereby constituted trustees to hold said quarantine site for the state of North Carolina. Upon the site so acquired shall be erected such wharves, buildings, apparatus and machinery as are necessary for all the purposes of maritime sanitation, and the system of sanitation to be used shall be devised by and subject to the approval of a board to consist of the quarantine board and the president and secretary of the state board of health. The said station, with its wharves, buildings, apparatus and machinery, shall be erected under the direction and be under the supervision of the quarantine board, and they shall prescribe all such rules and regulations as are necessary for its government and its maintenance.

1893, c. 505.

4417. Quarantine station available for all ports. Such quarantine station established, as provided in the preceding section, shall be and the same is hereby made a relief station to which vessels having on board persons who have been or are sick with infectious diseases, or the baggage of persons who have died of infectious disease during the voyage of said vessels applying at any other port or ports of North Carolina shall come for disinfection, whenever so directed by the quarantine officer of such other port or ports.

1893, c. 505, s. 3.

4418. Funds to erect station; when available. For the purpose of carrying into effect the provisions of the preceding section the sum of twenty thousand dollars is appropriated out of any moneys in the state treasury not otherwise appropriated, to be paid from time to time as required in the prosecution of the work, on the requis-

tion of the treasurer of the quarantine board and approved by its president: Provided, that the funds appropriated by this section shall not be paid over by the treasurer until the governor and state board of health of North Carolina shall certify to the treasurer that there is imminent danger of cholera visiting the city of Wilmington or other sections of the state.

1893, c. 505, s. 2.

4419. How fees used. All fees collected from vessels, as provided in section four thousand four hundred and eight, and all penalties and forfeitures collected for violations of the quarantine regulations of the port of Wilmington, shall constitute a fund in the hands of the quarantine board, and shall be used by them for the purpose of preserving the site established on the Cape Fear river, improving the buildings and wharves and keeping them in repair, and for such other purposes as may be necessary for the efficient management of the quarantine service.

1889, c. 521, s. 6.

4420. Site may be sold and new one bought. If the quarantine board, on investigation, shall consider a site further removed from inhabited places as essential to the public safety, and shall so recommend, it shall be the duty of the governor to sell the present hospital site at Price's Creek in such manner as he may deem best, and make title to the purchaser thereof, and the moneys received for said site to turn over to the quarantine board, to be used by them for quarantine purposes at some other point as convenient as possible to the quarantine anchorage off Deepwater Point.

1889, c. 521, s. 5.

4421. Hospitals; how established. The board of county commissioners may establish public hospitals for the county, and the commissioners of every incorporated town may do the same for the town; and the said board of county commissioners and the commissioners of such town may make all such rules, regulations and by-laws as they may deem needful for preventing the spread of contagious and infectious diseases and taking care of the afflicted, the same not being inconsistent with law. Nothing in this section shall be construed to lessen or impair the power and authority of the commissioners of the seaport towns, or the commissioners of navigation or other officers, under the quarantine laws of the state, to prevent the introduction of diseases by vessels arriving at or near said seaport towns.

Code, ss. 2910, 2911; R. C., c. 94, ss. 18, 19; 1824, c. 1232, s. 2.

4422. Commissioners of seaport towns; powers as to. The commissioners of the several seaport towns, and towns having a port

of entry, where there are no commissioners of navigation, shall have the same power and authority and be subject to the same duties as are prescribed for the commissioners of navigation in relation to the quarantine of vessels in the ports of their respective towns; and all persons offending against the regulations of the commissioners of such towns shall be subject to the same fines, penalties and forfeitures as though the said regulations had been made by the commissioners of navigation.

Code, s. 2906; R. C., c. 94, s. 14.

4423. Commissioners of navigation; powers. The commissioners of navigation of the several seaport towns in the state shall have power to appoint a harbor-master and health officer, to prescribe their duties and authority, to make rules and regulations for their government, allow them a reasonable compensation for their services, and determine how such compensation is to be paid. And they shall have power to pass such by-laws (not inconsistent with the laws of the land), for the better regulation of the quarantine to be performed by vessels arriving from ports infected or suspected to be infected with any infectious disease, and for preventing all intercourse between such vessels and persons on shore, as to them may seem meet and proper, and to enforce obedience to such by-laws, by imposing such penalties as they may think proper.

Code, s. 2905; R. C., c. 94, s. 13.

4424. Penalties; who entitled to. All penalties and forfeitures imposed by this subchapter may be recovered and applied, one-half to the use of the informer, the other half by the commissioners of navigation for the use and benefit of the navigation of the port within whose jurisdiction the penalty or forfeiture may have been incurred.

Code, s. 2903; R. C., c. 94, s. 11; 1793, c. 379, s. 8.

CHAPTER 98.

HISTORICAL COMMISSION.

(Sections 4425—4427.)

4425. Created; term of office; no compensation. The historical commission shall consist of not more than five persons, of whom three shall constitute a quorum. They shall be appointed by the gov-

ernor on the first day of April, one thousand nine hundred and five and every two years thereafter, and shall hold office for a term of two years from date of their appointment and until their successors are appointed and qualified. They shall serve without salary, mileage or per diem.

1903, c. 767, s. 2.

4426. Duties and powers. It shall be the duty of the commission to have collected from the files of old newspapers, from court records, church records and elsewhere valuable data pertaining to the history of the state. For this purpose and the transcription and preservation thereof the commission shall be authorized to expend annually a sum not exceeding five hundred dollars.

1903, c. 767, ss. 2, 3.

4427. Documents printed. The documents collected and approved by the commission shall be published by the state printer as other public printing, and shall be distributed by the state librarian under the direction of the commission.

1903, c. 767, ss. 3, 4.

CHAPTER 99.

HOSPITALS FOR INSANE.

	Sections.
I. General provisions.	4428—4432
II. Management of,	4433—4445
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I. GENERAL PROVISIONS.

4428. The several, incorporated. The hospital for the insane, located near Morganton, shall be and remain a corporation under this name: "The State Hospital at Morganton." The hospital for the insane, located near Raleigh, shall be and remain a corporation under this name: "The State Hospital at Raleigh." The hospital for the insane, located near Goldsboro, shall be and remain a corporation under this name: "The State Hospital at Goldsboro." Under their respective names each corporation is invested with all the property and rights heretofore held by each, under whatsoever name called or incorporated, and all other corporate names are hereby abol-

ished. Hereafter in this chapter, when the above names are used, they shall be deemed to relate back to and include the corporation, under whatsoever name it might heretofore have had.

Code, ss. 2227, 2240; 1899, c. 1, s. 1.

4429. May acquire and hold property. The state hospital at Morganton, and the state hospital at Raleigh, and the state hospital at Goldsboro, may each acquire and hold, for the purpose of its institution, real and personal property, by devise, bequest or by any manner of gift, purchase or conveyance whatsoever.

1899, c. 1, s. 2.

4430. Division of territory between; Goldsboro for colored insane. The state hospital at Morganton and the state hospital at Raleigh shall be exclusively for the accommodation, maintenance, care and treatment of the white insane of this state, and the state hospital at Goldsboro shall be exclusively for the accommodation, maintenance, care and treatment of the colored insane and inebriates of this state. The line heretofore agreed upon by the directors of the state hospital at Morganton and the state hospital at Raleigh shall be the line of division between the territories of the said hospitals, and white insane persons and inebriates settled in counties west of said line shall be admitted only into the state hospital at Morganton, and white insane persons and inebriates settled in counties to the east of said line shall be admitted only into the state hospital at Raleigh. The board of directors of these two hospitals may, by agreement, change said line from time to time whenever in their opinion such change may be proper, and they may, by agreement, transfer patients from one hospital to the other when such transfer may be deemed advantageous. That portion of the state which is or may hereafter be west of said division line shall be known as the western hospital district, and that portion of the state which is or may hereafter be east of said line shall be known as the eastern hospital district.

1899, c. 1, ss. 3, 4.

4431. Croatan insane cared for at Raleigh. It shall be the duty of the board of directors of the state hospital at Raleigh as soon as practicable to arrange for the care and treatment of all insane and inebriate Croatan Indians at the state hospital at Raleigh in a department separate and distinct from the white insane and inebriates in said hospital.

1899, c. 355.

4432. Sheriff carrying patient without authority, penalty. No sheriff or other person shall convey a patient to any hospital without

having ascertained that the patient will be admitted, and if any sheriff or other person shall carry a patient to a hospital without having ascertained that the patient will be admitted, and the patient is not admitted, he shall be required to convey the patient back to the county of his settlement, and he shall not be repaid by the county or hospital for the expenses incurred in carrying the patient to and from the hospital.

1899, c. 1, s. 25.

II. MANAGEMENT OF.

4433. By board of directors; how elected; term of office. Each corporation shall be under the management of a board of nine directors, no two of whom shall be resident of the same county, nominated by the governor and, by and with the advice and consent of a majority of the senators-elect, appointed by him, of whom five shall be a quorum, except when three of their number are in this chapter empowered to act for special purposes. Each board of directors shall be in classes of three, as they are now divided, and the term of office of such classes shall expire as follows: Those of the first class, on the first day of April, nineteen hundred and five; of the second class, on the first day of April, nineteen hundred and seven; and of the third class, on the first day of April, nineteen hundred and nine. At the expiration of their said respective terms of office, all appointments shall be for a term of six years, except such as are made to fill unexpired terms.

1899, c. 1, s. 5; 1901, c. 712.

4434. Executive committee; how elected; term of office; duties. Each board of directors shall, out of their number, appoint three members as an executive committee, who shall hold their respective offices as such for one year, and shall have such powers and be subject to such duties as the board of directors may delegate to them.

1899, c. 1, s. 6.

4435. Directors may receive property; salary of. Each board of directors shall direct and manage the affairs of their institution and shall for its purposes have power to receive, hold, manage, convey, or otherwise dispose of, in the name of their institution, all such property or estate as may hereafter be given or otherwise be conveyed to their corporation; and the members of each board shall serve without reward, save their traveling expenses incurred in the discharge of their official duties.

1899, c. 1, s. 7.

4436. Meeting of directors; when held. Each board of directors shall convene at the hospital of which it has charge on the first

Wednesday after the first Monday in April of each year, and at such other times as they shall appoint, and investigate the administration of its affairs, and report on the same to the general assembly, with such remarks and recommendations as to them shall seem expedient.

1899, c. 1, s. 8.

4437. By-laws and rules made by directors; copies sent to clerk superior court. Each board of directors shall make all such by-laws and regulations for the government of their institutions as shall be necessary; among which regulations shall be such as shall make the institution as nearly self-supporting as is consistent with the purpose of its creation.

1899, c. 1, s. 14.

4438. Funds belonging to; how disposed of. All moneys and proceeds of property given to any hospitals, and all moneys arising from the sale of any real estate which may be owned by such hospital, shall be paid into the state treasury, and all donations in which there shall be special directions for their application shall be kept as a distinct fund and faithfully applied, as the donor may have directed; and the same hospital shall be supported by appropriations from the state treasury. But the proceeds arising from the sale of personal property belonging to a hospital, the board paid by private patients, rentals from real estate, and money from any other sources, except the sale of real estate, shall remain with the hospital and be used as the board of directors may determine. An account of the proceeds of all such income and its expenditure shall be carefully kept and published in the report to the general assembly.

1899, c. 1, s. 34.

4439. State treasurer, treasurer for; how funds paid out. The state treasurer shall be treasurer of said corporations. The state treasurer shall keep all accounts of the institutions, and shall pay out all moneys upon the warrant of the respective superintendents, countersigned by two members of the board of directors, under such rules and regulations as the respective boards may establish.

1899, c. 1, s. 11.

4440. Board of charities and general assembly, visitors; superintendent reports, to whom. The board of public charities and the members of the general assembly shall be ex officio visitors of all hospitals for the insane. It shall be the duty of the board of public charities to visit the hospitals from time to time, as they may deem expedient, to examine into their condition and make report thereon to the general assembly, with such suggestions and remarks as they may think proper. And to the said board, and to the board of direc-

tors of his hospital, and to the general assembly only shall each superintendent be required to make reports or furnish statistics.

1899, c. 1, s. 37.

4441. Cost of conveying patients to and from hospital; how paid. The cost and expenses of conveying every insane person to any hospital from any county, or of removing him from the hospital to his county, or of the return to the county of his settlement, as same, shall be paid by the treasurer of such county, upon the order of its board of county commissioners. Whenever the board of commissioners shall be satisfied that such person has property sufficient to pay such cost and expenses, or that some other person liable for his support and maintenance has property sufficient to pay such costs and expenses as aforesaid, they shall bring an action and recover the amount paid from the said person, or from the other person liable for his support and maintenance.

1899, c. 1, s. 32.

4442. Requirements from person carrying patient to; penalty for failure to comply. Every sheriff or other person bringing to a hospital a patient shall see that the patient is clean, free from contagious disease and vermin, and that he has clothing proper for the season of the year, and in all cases two full suits of underclothing.

1899, c. 1, s. 24.

4443. Court may remit any penalties given by this chapter. Whenever suit shall be brought against a sheriff or board of county commissioners for the recovery of a penalty prescribed for doing an act forbidden, or failure to do any act required by this chapter, the judge or justice of the peace before whom the action is tried may order so much of said penalty to be remitted as in his judgment should be remitted to meet the ends of justice, and he shall enter up judgment for the amount of the penalty, to be discharged by the payment of such a sum as he may think just, and the costs of the action. In fixing the amount to be remitted (if the judge or justice should think the remission of any part proper), he shall consider the costs and expenses that the plaintiff may have been put to, and he should also consider the conduct of the defendants; and there ought to be no remission when the act of the defendants is wanton or contumacious, or is grossly negligent.

1899, c. 1, s. 57.

4444. Fiscal year. The close of the fiscal year shall be the thirtieth day of November in each year, and all accounts and estimates shall be made with reference thereto.

1899, c. 1, s. 38.

4445. Board may make ordinances; penalty to violate. Authority is hereby conferred upon the board of directors of each hospital and upon the board of directors and superintendent of the North Carolina school for the deaf and dumb to enact ordinances for the regulation and deportment of persons in the buildings and grounds of the institution, and for the suppression of nuisances and disorder, and when adopted the ordinances shall be recorded in the proceedings of the said board and printed, and a copy posted at the entrance to the grounds, and not less than three copies posted at different places within the grounds, and when so adopted, and printed, and posted up, the ordinances shall be binding upon all persons coming within the grounds. Each board is empowered and directed to prescribe penalties for the violation of each section of the ordinances so adopted, and if any person violates a section of the ordinances, the penalty prescribed may be recovered in a civil action instituted in the name of the hospital against the person offending before any justice of the peace in the county in which the hospital is situated and the sum so recovered shall be used as the board of directors shall direct.

1899, c. 1, s. 54; 1901, c. 627.

III. OFFICERS OF.

4446. Directors not liable for acts done under this chapter. No director or superintendent of any state hospital shall be personally liable for any act or thing done under or in pursuance of any of the provisions of this chapter.

1899, c. 1, s. 31.

4447. Superintendent; how appointed; term of office; qualifications; how removed. Each board of directors shall appoint a superintendent of their institution and prescribe his duties. He shall be a skilled physician, educated to his profession, of good moral character, of prompt business habits, and of kindly disposition. He shall hold office for six years from and after his appointment, unless sooner removed by said board, who may, for infidelity to his trust, gross immorality or incompetency to discharge the duties of his office, fully proved and declared, and the proofs thereof recorded in the book of their proceedings, remove him and appoint another in his place.

1899, c. 1, s. 69.

4448. Powers of superintendent as to. The superintendent of each hospital shall exercise exclusive direction and control over all the subordinate officers and employees engaged in the service and labors of his hospital, and he may discharge such as have been employed

by himself or his predecessors, and shall report to the board of directors of his hospital the misconduct of all subordinates.

1899, c. 1, s. 13.

4449. Superintendent to notify sheriff of escape. Any superintendent may notify the sheriff within whose county any person sent from his hospital on probation, or escaped therefrom, may be found, and thereupon it shall be the duty of such sheriff forthwith to take such person and return him to such hospital at the expense of the county of the settlement of the patient.

1899, c. 1, s. 27.

4450. Assistant physicians; how appointed and removed; duties; how fixed. Each superintendent shall appoint one or more assistant physicians, the number to be fixed by the board of directors. The superintendent shall have the power to prescribe the duties of each assistant physician, and may suspend him, or any employee, for thirty days, for insubordination, immorality, neglect of duty or incompetence, and, by and with the advice of the executive committee of the board of directors, may remove such assistant physician, or employee, for like cause. Each assistant physician shall hold his office for two years, unless removed for cause, which shall be specified and the action of the superintendent and executive committee reported to the board of directors, which shall record the same on its minutes.

1899, c. 1, s. 10.

4451. Steward and matron; how appointed and removed. Each superintendent shall appoint a steward, and if he shall think proper to do so, a matron also, who shall hold their places for one year, unless sooner suspended or removed by the superintendent or board of directors for good cause, in which case their successors shall be appointed for the unexpired terms of those removed. The method of procedure for the suspension and removal of assistant physicians, contained in the preceding section, shall be followed in the suspension and removal of any steward or matron.

1899, c. 1, s. 11.

4452. Steward gives bond; amount; condition. The steward, before entering upon the discharge of his duties, shall execute to the hospital a bond in the sum of two thousand five hundred dollars, with sureties, to be approved by the board of directors, conditioned for the faithful administration of his duties, and the proper accounting for and disbursement of all money and property coming into his hands.

1899, c. 1, s. 11.

4453. Salaries of employees fixed by directors. Each board of directors shall fix the salaries and compensation of the superintendent, and the officers and employees whose services may be necessary for the management of the hospital under charge of said board. The salaries shall not be diminished during the term of the incumbents. The salary of the superintendent shall be a sum certain, without other compensation or allowance, except such rooms in the hospital for the use of his family, and such articles of food produced on the premises as said board of directors may permit.

1899, c. 1, s. 12.

4454. Proceedings of directors recorded; may employ a clerk; books open to general assembly. Each board of directors shall cause all their proceedings to be faithfully and carefully written and recorded in books, and to this end may employ a clerk, and pay him a reasonable compensation for his services. The books shall, at all times, be open to the inspection of the general assembly.

1899, c. 1, s. 36.

4455. Superintendent may appoint employees as policemen, who may arrest without warrant. The superintendent of each hospital and the superintendent of the North Carolina school for the deaf and dumb is each hereby empowered to appoint such number of discreet employees of his hospital or school as he may think proper, special policemen, and within the grounds of such hospital or school the said employees so appointed policemen shall have all the powers of policemen of incorporated towns. They shall have the right to arrest without warrant persons committing violations of the state law or the ordinances of that hospital or school, in their presence, and within the grounds of their hospital or school, and carry the offenders before some justice of the peace for trial. The justice of the peace shall issue a warrant and proceed as in other criminal cases before him.

1899, c. 1, s. 55; 1901, c. 627.

4456. Special policemen to take oath; filed with board of directors. Before exercising the duties of a special policeman, the employees appointed, as in the preceding section, shall take an oath of office before some justice of the peace of the county, or other officer empowered to administer oaths, and the same shall be filed with the records of the board of directors. The oath of office shall be as follows:

State of North Carolina, County.

I,, do solemnly swear (or affirm) that I will well and truly execute the duties of office of special policeman in and for the state hospital at, according to the best of my skill and ability and according to law; and that I will use my best endeavors to enforce all the ordinances of said hospital, and to

suppress nuisances, and to suppress and prevent disorderly conduct within said grounds So help me, God.

Sworn and subscribed before me, this day of, A. D.

1899, c. 1, s. 56; 1901, c. 627.

4457. Volunteer firemen among employees rewarded. The board of directors of each hospital shall have power to provide benefits, to be paid to any employee of the hospital who shall be injured while discharging the duties of a volunteer fireman. And the board may inaugurate a system by which a fund is raised to provide suitable benefits for said firemen and may contribute from the funds of said hospital for that purpose. The volunteer firemen at the various hospitals shall not share in the state firemen's relief fund.

1899, c. 1, s. 59.

IV. ADMISSION.

4459. Idiots not admitted to. No idiot shall be committed to any hospital, and for the purpose of this chapter an idiot is defined to be a person born deficient in mind or who became deficient before the full completion of the twelfth year of age.

1899, c. 1, s. 18.

4461. Priority given to indigent; when private nurses provided. In the admission of patients to any state hospital, priority of admission shall be given to the indigent insane: Provided, that the boards of directors may regulate admissions, having in view the curability of patients, the welfare of their institutions, and the exigencies of particular cases: Provided further, that said boards may, if there be sufficient room, admit other than indigent patients. If any inmate of any state hospital shall require private apartments, extras or private nurses, the directors, if practicable, shall provide the same at a fair price to be paid by said patient.

1899, c. 1, s. 44.

4462. Settlement of patient; how determined. For the purposes of this chapter the settlement of every person admitted to a state hospital as insane shall be in the county where the actual place of his residence at his admission may be situated, when such settlement comes in question, but no person can have a settlement in any county in this state unless he is a bona fide citizen and resident of this state, and was so before mental disease became manifest.

1899, c. 1, s. 28.

4463. Affidavit of insanity made to procure. For admission into a state hospital, the following proceedings shall be had: Some respectable citizen, residing in the county of the alleged insane person, shall make before and file with the clerk of the superior

court of the county an affidavit in writing, which shall be substantially in the following form:

State of North Carolina, County.
The undersigned, residing in said county, makes oath that he has carefully examined and believes him to be an insane person, and to be, in the opinion of the undersigned, a fit subject for admission into a hospital for the insane.

Dated day of, A. D.
....., Affiant.

Sworn and subscribed before me,
..... Clerk Superior Court.

1899, c. 1, s. 15.

4464. Affidavit made; clerk issues order to bring party up for examination. Whereupon, unless the person in whose care or custody the insane person is, will agree to bring him before said clerk without a warrant, or unless the clerk shall be of the opinion that it will be injurious to the insane person to be brought before him, the clerk shall issue a precept, directed to the sheriff or other lawful officer, substantially in the following form:

State of North Carolina, to the Sheriff or other lawful officer of county—
Greeting:

Whereas, information on oath, has been laid before me that is insane, you are hereby commanded to bring him before me within the next ten days that necessary proceedings may be had thereon. Given under my hand day of, A. D.

....., Clerk Superior Court.

1899, c. 1, s. 15.

4465. Clerk causes examination made; who makes. If the alleged insane person be confined in jail otherwise than for crime, the sheriff shall remove him from the jail upon the order from the clerk. Upon the bringing of the alleged insane person before the clerk by his friends, or upon the return of the precept with the body of the insane person, the clerk shall call to his assistance the county physician of said county, or some other licensed and reputable physician, resident of this state, and shall proceed to examine into the condition of mind of the alleged insane person. He shall take testimony of at least one licensed physician, resident of this state, and if possible, a member of the family, or some friend or person acquainted with the alleged insane person, who has had opportunities to observe him after such insanity is said to have begun.

1899, c. 1, s. 15.

4466. Clerk discharges, when; commits to hospital, when; bond for safe-keeping of insane party. If the clerk, after his examination of the alleged insane person, and the hearing of the testimony as aforesaid, shall decide that such person is sane, he shall forthwith discharge him. If he shall decide that such person is insane, and

some friend, as he may do, will not become bound with good security in an amount to be fixed by the clerk to restrain him from committing injuries, and to keep, support and take care of him until the cause for confinement shall cease, he shall direct such insane person to be removed to the proper hospital as a patient, and to that end he shall direct a warrant to the sheriff, or other officer, and at the same time shall transmit to the proper board of directors the examination of the witnesses, and the statement of such facts as he shall deem pertinent to the subject matter, which warrant shall be substantially as follows:

State of North Carolina, to the Sheriff or other lawful officer of county—
Greeting:

Whereas, it has been made to satisfactorily appear to me clerk of the superior court of said county, that a citizen of the state, is an insane person, that he has a legal settlement in said county, and is a fit subject for a state hospital, and that his being at large is injurious to himself and disadvantageous if not dangerous to the community: you are hereby commanded to take the said and convey him to the proper hospital, and there deliver him to the superintendent thereof for safe-keeping.

Given under my hand this day of, A. D.
....., Clerk Superior Court.

1899, c. 1, s. 15.

4467. Clerk examines party at home, when. If the clerk of the court shall be of the opinion that it will be injurious to the alleged insane person to be brought before him, the clerk shall proceed to the residence or habitation of said person and take the examination there.

1899, c. 1, s. 15.

4468. Justice of the peace acts when; procedure. In a case of emergency, when for any reason the clerk of the court can not go or is absent from the county, then any justice of the peace is authorized to proceed in like manner by taking the testimony of the physician and other witnesses, as is before provided for in this chapter, and report the same to the clerk. If the clerk is satisfied that the alleged insane person is a fit subject for a hospital for the insane, he shall issue an order for his commitment. In cases of great emergency or inconvenience, the said justice may commit a patient to a hospital, and the superintendent is authorized to receive him, but the justice shall procure an order from the clerk to be forwarded to the superintendent within thirty days. The following fees shall be allowed to the officers who make the examination and they shall be paid by the county in which the alleged insane person is settled, to the clerk or justice who makes the examination, two dollars, and if the clerk goes to the home of the insane person, he shall be entitled, in addition to this sum, to five cents a mile each way. This shall

cover his entire cost in taking the examination, and making out the necessary papers.

1899, c. 1, s. 15.

4469. Fees of physician for examination. The physician called in the absence of the county physician, shall be entitled to two dollars with mileage. The sheriff shall be entitled to such fees as are now allowed by law for the service of process of similar character. The county physician, being a salaried officer, is not allowed any fee for his services in this examination.

1899, c. 1, s. 15.

4470. Person becoming suddenly violently insane; who may commit. Whenever any citizen or resident of this state becomes suddenly or violently insane, in some county other than that of his settlement, the proper authorities, as hereinbefore provided, of any county in which he shall be, shall have authority to examine him, and if necessary commit him to the hospital to which he would be sent had he been committed from the county of his own settlement.

1899, c. 1, s. 16.

4471. County of settlement pays expense of commitment of person; penalty. Immediately upon the commitment to a hospital of any such person, a transcript of the proceedings shall be sent to the clerk of the county in which he is settled, and that county shall pay over to that county from which he was committed all the cost of the examination and commitment, and if the board of commissioners of the county of the settlement shall fail to pay all proper expense of said proceedings within sixty days after the claim shall have been presented, they shall forfeit and pay to the county which committed the insane person the sum of two hundred and fifty dollars, to be recovered by the commissioners of that county in a civil action brought in the superior court of that county from which the patient was committed to the hospital, against the commissioners of the county.

1899, c. 1, s. 16.

4472. Citizen of another state adjudged insane; procedure. If any person not a citizen or resident of this state, but a citizen and resident of another state of the United States, shall be ascertained to be insane, the clerk of the court shall immediately notify the governor of the state of which the insane person is a citizen, of the facts and circumstances by letter (or telegraphic message if he think proper), and for a reasonable length of time the insane person shall be kept confined or restrained in said county, but shall not be com-

mitted to any state hospital, and if the state of his citizenship shall not provide for the removal from this state to his proper state of the insane person within a reasonable time, the county commissioners of the county in which he shall have been ascertained to be an insane person shall cause him to be conveyed to the state of which he is a citizen and delivered there to the sheriff of his county or to the superintendent of any state hospital. The cost of such proceedings and conveyance away from this state shall be borne by the county in which the person shall have been adjudged to be insane.

1899, c 1, s. 16.

4473. Alien resident adjudged insane; procedure. If any person, not a citizen of the United States, shall be ascertained to be insane, the clerk of the court shall immediately notify the governor of this state of the name of the insane person, the country of which he is a citizen, and his place of residence in said country if the same can be ascertained, and such other facts in the case as he may obtain, together with a copy of the examination taken; and the governor shall transmit said information and examination to the secretary of state at Washington, D. C., with the request that he inform the minister resident or plenipotentiary of the country of which the insane person is supposed to be a citizen.

1899, c 1, s. 16.

4474. Clerk to keep record; what to record; fees. The clerk will keep a record of all examinations of persons alleged to be insane, and he shall record in such record a brief summary of the proceedings and of his findings, and whenever a justice of the peace shall transmit to the clerk a report of his proceedings when he shall have examined a person under the powers granted under this chapter the clerk shall make a record of his proceedings, and for recording the justice's proceedings he shall be entitled to a fee of twenty-five cents, to be paid by the county aforesaid, and he shall keep a record of all probations and discharges provided for in section forty-four hundred and eighty-six.

1899, c. 1, s. 17.

4475. None but bona fide residents admitted to hospitals. No clerk of the court or justice of the peace shall commit to a hospital any person who is not a bona fide citizen and resident of this state; and no person who shall have removed into this state from another state while insane shall be deemed a resident or citizen of this state, and no length of residence in this state of a person who was insane at the time he moved into this state shall be sufficient to make that person a citizen or resident of North Carolina within the meaning of this chapter.

1899, c. 1, s. 18.

4476. In examinations findings as to residence made and reported to superintendents. In every examination of an alleged insane person it shall be the duty of the clerk or justice of the peace to particularly inquire whether the alleged insane person is a resident of this state, as hereinbefore set forth, and he shall state his findings upon the subject in his report to the superintendent of the hospital. If it is not possible to ascertain the legal residence of the alleged insane person, and the clerk or justice of the peace shall be of the opinion that the insane person is a resident of this state, within the meaning of this law, he shall state that he was unable to ascertain the legal residence of the insane person, and shall commit him to the hospital of his district.

1899, c. 1, s. 18.

4477. Questions answered upon examination; certified to superintendent. The following questions, with their respective answers by at least one licensed physician, resident of this state, and such other competent witnesses as the clerk or justice shall determine, duly sworn and subscribed by them, and so certified by said clerk or justice, shall be transmitted with the other papers to the superintendent of the proper hospital, to be reported as soon as practicable to the board of directors. Pending the consideration of the application by the board of directors, the patient shall remain in the custody of the officer or such person as the clerk may designate until it can be ascertained if there is room for the patient at the hospital:

- Question 1. What is the name of the patient?
Answer
- Question 2. Is white or colored?
Answer
- Question 3. What is age?
Answer
- Question 4. What is the occupation of patient?
Answer
- Question 5. Is married or single; and, if married, for how many years?
Answer
- Question 6. If patient be married woman, state maiden name.
Answer
- Question 7. Has any education; if so, how much?
Answer
- Question 8. Where was born?
Answer
- Question 9. How many attacks of mental disease has the patient had?
Answer
- Question 10. What is the supposed cause of the present attack of insanity?
Answer
- Question 11. Has been subject to epilepsy?
Answer
- Question 12. How long has been insane? (Count from first symptoms of present attack, and give all known symptoms from that time to this date.)
Answer

- Question 13. In what way is the disease exhibited?
 Answer
- Question 14. Has any delusions? If so, what are they?
 Answer
- Question 15. Is destructive to clothing or furniture?
 Answer
- Question 16. Is filthy or indecent?
 Answer
- Question 17. Has the patient manifested any propensity to injureself or others? If so, in what way and how often?
 Answer
- Question 18. Has ever threatened suicide?
 Answer
- Question 19. Has ever attempted suicide?
 Answer
- Question 20. Has ever threatened homicide?
 Answer
- Question 21. Has ever attempted to commit homicide?
 Answer
- Question 22. Has any family; and if so, what persons compose it? Age of youngest child?
 Answer
- Question 23. Are any of them insane, and what is the character of such insanity?
 Answer
- Question 24. Are parents of the insane person related by blood? If so, what is the degree of relationship?
 Answer
- Question 25. Have any of ancestors been insane? If so, state what ancestors, and what was the character of their insanity?
 Answer
- Question 26. Are any of relatives deaf, dumb, blind, idiotic, epileptic or paralyzed? If so, state relationship.
 Answer
- Question 27. What is bodily condition? Chronic or acute physical disease? State the diseases and stage of disease (wounds, bruises, rupture, pregnancy).
 Answer
- Question 28. Has any medical treatment been pursued? If so, what kind and by whom?
 Answer
- Question 29. Is in jail?
 Answer
- Question 30. Is in the poorhouse?
 Answer
- Question 31. Is under any forcible restraint? If so, what?
 Answer
- Question 32. Has patient any property? If so, state in what property consists, and what is the value thereof?
 Answer
- Question 33. Has the patient received any aid from the county? If so, what?
 Answer
- Question 34. Give name and postoffice of the nearest relative with whom the superintendent of the hospital can correspond, as circumstances require, for the benefit of the patient
 Answer
- Name
- Relationship
- P. O. address

Question 35. Give any information in your possession not embraced in the above question which may throw light on the mental or physical condition of the patient.

Answer
....., M. D.

.....
.....
Witnesses.

State of North Carolina, County.

Before officer,duly authorized to administer an oath, this day of, A. D., came, M. D., and persons known to be credible and reliable witnesses, and make oath that the foregoing answers are true to the best of their knowledge and belief.

.....
.....

1899, c. 1, s. 19.

4478. Superintendent in doubt as to; procedure. Whenever any insane person shall be conveyed to any hospital, and the superintendent is in doubt as to the propriety of his admission, he may convene any three of the board of directors of his hospital, who shall constitute a board for the purpose of examining and deciding if such person is a proper subject for admission; and if a majority of such board so decide, such person shall be received into said hospital; but a like board may at any time thereafter deliver said insane person to any friend who will become bound with good surety to restrain him from committing injuries, and to keep, maintain, and take care of him, in the same manner as he might have become bound under the authority of the clerk of the court.

1899, c. 1, s. 21.

4479. Patient exposed to disease, superintendent may refuse to receive. The superintendent of the hospital may refuse to receive into his institution a patient when he shall have reliable information that the patient has recently been exposed to infectious or contagious disease, and there is danger of contagion and infection being conveyed by the patient, or where the patient comes from a quarantined community. Whenever a patient is rejected because of any of these reasons, the superintendent shall make a record of the application, and as soon as, in his opinion, the danger shall have been removed, he shall notify the sheriff of the county, and admit the patient into his hospital.

1899, c. 1, s. 26.

4480. Patient released on bond; terms not complied with, patient returned. Whenever it shall be made to appear to the clerk of the superior court of the county of settlement of an insane person released on bond that the conditions of the bond are not faithfully complied with, said insane person shall be sent back to the proper hospital by him, unless some other responsible and discreet friend

will undertake to fulfill the duties of said obligation and whenever said insane person shall be sent back, he shall not be delivered on any new bond of the defaulting obligor.

1899, c. 1, s. 33.

4483. Upon patient's own application. Any person believing himself to be of unsound mind, or threatened with insanity, may voluntarily commit himself to the proper hospital. The application for commitment shall be in the form following:

State of North Carolina, County of

I,, a resident of county, North Carolina, being of mind and capable of signifying my wishes, do hereby solicit admission as a patient in the state hospital at for such a period of time as the board of directors and the superintendent may deem necessary. And I agree in all respects to conform to the rules and regulations of said institution during the period which shall be prescribed by the superintendent and board of directors.

Attest

This application shall be accompanied by the certificate of a licensed physician, which certificate shall state that in the opinion of the physician the applicant is a fit subject for admission into a hospital, and that he recommends his admission. The certificate of the clerk of the superior court need not accompany this application. The superintendent may, if he think it a proper application, receive the patient thus voluntarily committed, and treat him until the next meeting of the board of directors, or of the executive committee, and shall report the application and admission to the first meeting of either of said boards, and if either of said boards approve said admission, the patient shall be considered as having been regularly committed, and shall in all respects be treated as such. But no report need be made to the clerk of the court of his county of settlement. The superintendent and board of directors shall have the same control over patients who commit themselves voluntarily, as they have over those committed under the regular proceedings hereinbefore provided. And no voluntary patient shall be entitled to a discharge until he shall have given the superintendent ten days' notice of his desire to be discharged.

1899, c. 1, s. 49,

4484. Insane person committed to jail, when. When any person is found to be insane under any of the provisions of this chapter, and he can not be immediately admitted to the proper hospital, and such person is also found to be subject to such acts of violence as threaten injury to himself and danger to the community, and he can not otherwise be properly restrained, he may be temporarily committed to the county jail until a more suitable provision can be made for his case.

1899, c. 1, s. 45.

V. DISCHARGE.

4485. County commissioners may discharge insane person, when. It shall be the duty of the board of county commissioners, by proper order to that effect, to discharge any ascertained insane person in their county, not admitted to the appropriate hospital, and not committed for crime, when it shall appear upon the certificate of two respectable physicians, and the chairman of their board, that such insane person ought to be discharged if in a hospital.

1899, c. 1, s. 20.

4486. Who may discharge from hospital; sheriff to come for discharged patient; expense, how paid. Any three of the board of directors of any hospital, upon the superintendent certifying the facts (a copy of which certificate shall be sent to the clerk of the superior court of the county of settlement), shall be a board to discharge or remove from their hospital any person admitted as insane, when such person has become, or is found to be of sane mind, or when such person is incurable, and in the opinion of the superintendent his being at large will not be injurious to himself or dangerous to the community, or said board may permit such person to go to the county of his settlement on probation, when in the opinion of the said superintendent it will not be injurious to himself or dangerous to the community; and said board may discharge or remove such person, upon other sufficient causes appearing to them; and whenever any such person, admitted as indigent, may be so discharged or removed, except as sane, it shall be the duty of the sheriff of the county of his settlement to convey such person to his county at its expense, and any such person discharged as restored or probated shall receive from such hospital a sum of money sufficient to pay his transportation to the county of his settlement, which sum shall be repaid by said county, and, if necessary, the hospital shall provide the patient with a decent suit of clothes. When notified by the superintendent to come for and remove any insane person from the hospital, it shall be the duty of the sheriff of the county, in which the insane person has a settlement, forthwith to convey the insane person from the hospital to the county of his settlement. The cost of said removal shall be advanced by the sheriff and repaid to him by the county of insane person's settlement, and if any sheriff, after having been notified by the superintendent to remove any insane person, as aforesaid, shall fail to do so within fifteen days from the time of the receipt of the letter of notice, he shall forfeit and pay to the said hospital the sum of fifty dollars, to be collected in the manner hereinafter provided for the collection of penalties, given in this chapter, and if the commissioners of any county shall fail to repay to the hospital the money disbursed in paying for the necessary clothes and

traveling expenses of any person discharged as cured from said hospital, within sixty days after the presentation of a claim therefor, the said commissioners shall forfeit and pay to the said hospital the sum of fifty dollars to be collected in the manner hereinafter provided for the collection of penalties

1899, c. 1, s. 22.

4487. Superintendent to discharge temporarily, when. Each superintendent may, for the space of thirty days, or until the next meeting of the board of three directors provided for in the preceding section, discharge upon probation any patient, when in his opinion the same would not prove injurious to the patient or dangerous to the community. A report of all such probations shall be rendered to the said board of three directors at their first ensuing meeting.

1899, c. 1, s. 23.

4488. Bonds for safe-keeping of insane; penalty; condition. All bonds executed for restraining insane persons from committing injuries, and for their safe-keeping, support and care, shall be payable to the state of North Carolina, in the sum of five hundred dollars at least, and shall be transmitted to the clerk of the superior court of the county wherein said insane person is settled, for safe-keeping, and may be put in suit by any person injured by said insane person by reason of his insane condition; and shall be put in suit by the solicitor for the judicial district, in which the county of said insane person's residence is situated, for any other breach thereof, wherein the damage received shall be for the use of said insane person.

1899, c. 1, s. 29.

4489. Form of bond for safe-keeping of insane. The form of bond mentioned in the preceding section shall be as follows:

State of North Carolina, County of

Know all men by these presents, that we, A..... B....., principal, and C..... D....., and E..... F....., sureties, are held and firmly bound unto the State of North Carolina in the sum of dollars, for the payment whereof we bind ourselves and each of us.

Witness our hands and seals this day of, 19.....

The condition of the above obligation is this:

Whereas, the said A..... B....., with the view of hindering G..... H....., an insane person resident in the county aforesaid from being sent to insane hospital (or to effect his release from the said hospital as the case may be) hath undertaken to restrain him from committing injuries and to keep, maintain, support and take care of the said G..... H..... Now, if the said A..... B..... shall faithfully comply with the conditions of this obligation, then the same shall be void, otherwise it shall be in full force.

A.....B..... (Seal.)
 C.....D..... (Seal.)
 E.....F..... (Seal.)

1899, c. 1, s. 30.

VI. PRIVATE.

4490. May be established; license obtained; reports to be made under control of the board of charities. It shall be lawful for any person or corporation to establish private hospitals, homes or schools for the cure and treatment of insane persons, idiots, and feeble-minded persons and inebriates; but license to establish said hospitals, homes or schools, must, before the same are opened for patronage, be obtained from the board of public charities, and said hospitals, homes or schools shall at all times be subject to the visitation of the said board or any member thereof, and each hospital, home or school shall make to said board a semi-annual report on the first days of January and July of each year. In said report shall be stated the number and residence of all patients admitted, the number discharged during the six months preceding, and the officers of the hospital, home or school. And each hospital, home or school shall file with the said board a copy of its by-laws, rules and regulations, and rates of charges. The books of each hospital, home or school shall at all times be open to the inspection of the said board or any member thereof. The board of public charities is hereby given the authority to supervise and regulate all private hospitals, homes and schools, established hereafter in this state for the treatment of the above classes of people, and the said board shall have power to prescribe all such rules and regulations as they may deem necessary and shall exercise the power of visitation, and for that purpose may depute any member of their board to visit and supervise any private hospital, home or school hereafter established under this chapter. The board of public charities may bring an action in the superior court of Wake county to vacate and annul any license granted by said board, when it shall appear to the satisfaction of said board that the managers of any private hospital, home or school have been guilty of gross neglect, cruelty or immorality.

1899, c. 1, s. 60.

4491. Counties and towns may establish. Any county, city or town may establish a hospital for the maintenance, care and treatment of such insane persons as can not be admitted into a state hospital, and of idiots and feeble-minded persons upon like conditions and requirements as are above prescribed for the institution of private hospitals; and the board of public charities is given the same authority over such hospitals as is given them by the preceding section for private hospitals.

1899, c. 1, s. 61.

4492. Part of system of public charities. All hospitals, homes or schools for the care and treatment of insane persons, idiots and

feeble-minded persons and inebriates, formed in compliance with the two preceding sections and duly licensed by the board of public charities as in this subchapter provided, shall, during the continuance of such license, become and be a part of the system of public charities of the state of North Carolina.

1903, c. 329, s. 1.

4493. Insane person placed in private hospital, when. Whenever any person shall be found to be insane in the mode hereinbefore prescribed, and such person shall be possessed of an income sufficient to support those who may be legally dependent for support on the estate of such insane person, and moreover, to support and maintain such insane person in any named hospital without the state, or any private hospital within the state and such insane person, if of capable mind to signify such preference, shall, in writing, declare his wish to be placed in such hospital instead of being in a state hospital (or in case such insane person is incapable of declaring such preference, then the same may be declared by his guardian) and two respectable physicians who shall have examined such insane person, with the clerk of the court or justice of the peace who made the examination, shall deem it proper, then it may be lawful for said clerk or justice, together with said physicians, to recommend in writing that such insane person shall be placed in the hospital so chosen as a patient thereof.

1899, c. 1, s. 39.

4494. Justice of the peace to report to clerk. It shall be the duty of the justice, when he shall act, to report the proceedings in such cases to the clerk of the superior court of the county in which such insane person may reside or be domiciled.

1899, c. 1, s. 41.

4495. Clerk to report proceedings to judge. The clerk of the court shall lay the proceedings before the judge of the superior court of the district in which such insane person may reside or be domiciled, and if he approve them, he shall so declare in writing, and such proceedings, with the approval thereof, shall be recorded by said clerk.

1899, c. 1, s. 42.

4496. Proceeding authorizes persons being sent to private hospital. A certified copy of such proceedings, with the approval of said judge, shall be sufficient warrant to authorize any friend of such insane person appointed by the said judge to remove him to the hospital designated.

1899, c. 1, s. 43.

4497. How patients transferred from public hospitals to, on petition. When it is deemed advisable that any person, a citizen of the state of North Carolina, or a citizen of another state or country, temporarily sojourning in North Carolina, should be detained in any private hospital within the state, two persons, one of whom must be a physician, not connected with any private hospital, shall make affidavit before a justice of the peace or a clerk of the superior court of this state, that they have carefully examined the alleged insane person; that they believe him to be a fit subject for commitment to a hospital for the insane, and that his detention and treatment will be for his advantage and benefit. This certificate shall be filed with and approved by the clerk of the superior court in the county in which the examination is held, or in the county in which the private hospital is located, and a certified copy of this certificate, and approval of the clerk shall be deposited with the superintendent of the private hospital as his authority for holding the insane person. The clerk of the court may, if he sees fit, issue warrants and have the alleged insane person before him in manner prescribed in sections forty-four hundred and sixty-three to forty-four hundred and sixty-nine, inclusive, and he may, if he see fit, order any insane person brought before him to be taken to a private hospital within the state instead of one of the state hospitals, and his warrant shall be sufficient authority for holding such insane person in such private hospital. Idiots, feeble-minded persons and inebriates may be committed to and held in private hospitals or homes in this state in the manner hereinbefore prescribed for insane persons: Provided, that a period of detention in a private hospital or home of not less than one month and not more than six months shall be prescribed for inebriates, at the discretion of the clerk of the superior court approving the commitment.

1903, c. 329, s. 2.

4498. Executive committee of state hospitals may order transfer made. When it is deemed desirable that any inmate of any state hospital be transferred to any licensed private hospital within the state, the executive committee may so order and a certified copy of the commitment on file at the state hospital and the order of the executive committee shall be sufficient warrant for holding the insane person, idiot or inebriate by the officers of the private hospital.

1903, c. 329, s. 3.

4499. Guardian appointed for inmate of, when. Upon the hearing before the clerk of the superior court of an application for the appointment of a guardian for the person or estate of any person alleged to be insane, the certificate of the superintendent of any

state hospital certifying under oath before any notary public or clerk of the court that the alleged lunatic is an inmate of his hospital and that he has been an inmate for not less than three months and that he believes that the said inmate is an insane person shall be sufficient evidence upon which the clerk of the court may adjudge the person to be insane, and to justify the clerk in appointing a guardian for his property or person, or for both, and in such cases, an inquest of lunacy shall not be necessary.

1899, c. 1, s. 51.

4500. Guardian of insane person to pay expenses out of estate.

It shall be the duty of any person having legal custody of the estate of an insane person, idiot or inebriate legally held in a private hospital to supply funds for his support in the hospital during his stay therein and so long as there may be sufficient funds for that purpose over and beyond maintaining and supporting those persons who may be legally dependent on the estate.

1899, c. 1, s. 40; 1903, c. 329, s. 4.

4501. Fees and charges for examinations. The fees and charges for examination for admission to private hospitals shall be the same as for examinations for admission to the state hospitals.

1903, c. 329, s. 5.

VII. FOR DANGEROUS.

4502. Created under control of state's prison board. A hospital for the dangerous insane is hereby created a corporation under the name of The State Hospital for the Dangerous Insane, and shall be under the direction and management of the board of directors of the state's prison, which shall be ex officio the board of directors of the said corporation, which board shall, in its name, have power to receive, hold and manage all such property or estate as may be hereafter given to, or otherwise acquired by, the said corporation, and shall have the same control and direction of the affairs of the said corporation as is given by law to the board of directors of the other state hospitals. The said hospital shall be located in the wards of the state's prison where the dangerous insane are now cared for and treated, in which hospital shall be admitted, cared for and treated the dangerous insane as now provided by law.

1901, c. 755, s. 1.

4503. How governed. This chapter as to the government of the state hospitals shall, as far as practicable, be applicable to, and shall regulate the government of the state hospital for the dangerous insane, when not inconsistent with the provisions of this chapter, ex-

cept that there shall be elected only such assistants, and other officers, as the said board of directors may think proper.

1901, c. 755, s. 6.

4504. Duties of board. It shall be the duty of the board of directors of said corporation, as soon as practicable, by partitions, walls and otherwise, to fully and completely separate the said hospital from said prison, and they shall change the same so as to conform to the purposes of a hospital for the insane. They shall advise with the superintendents of the three hospitals for the insane before making such changes as to what is necessary for the safety, comfort and welfare of the patients. It shall be the duty of the board of directors of the state's prison to furnish to the said hospital all labor free of charge, and all material at cost, necessary for building said walls and partitions, and for placing the said wards and apartments herein referred to in a proper condition, and the said hospital shall not be a part of the state's prison, but shall be the state hospital for the dangerous insane. That the board of directors of the state's prison is hereby directed and required to furnish to the hospital heat, lights and water at cost, and do all things proper and necessary for the comfort, maintenance and humane treatment of said dangerous insane herein committed to its care. In said hospital the sexes and races shall be kept in separate wards and apartments.

1901, c. 755, s. 3.

4505. Directors appoint a physician in charge; term of office.

The board of directors of the state hospital for the dangerous insane shall appoint a skilled physician, educated to his profession, of good moral character, of prompt business habits and of kindly disposition to have charge of the insane committed to its care. He shall be required to perform the duties of physician to each of said institutions, and shall be paid from the funds belonging to the said institutions respectively such amount as shall be prescribed and agreed upon by the board of directors. He shall hold his office for four years, unless sooner removed by the said board, which may, for infidelity to his trust, gross immorality or incompetence to discharge the duties of his office, fully proved and declared, the proof recorded in the book of their proceedings, remove him and appoint another in his place.

1901, c. 755, s. 4.

4506. Duties of the physician. The said physician shall have the same powers and perform the same duties as the superintendent of the other state hospitals, and such additional duties as may be prescribed by the board of directors, and in addition thereto he shall make a special study of penology, and crime in all its aspects, and

shall make special biennial reports thereof to the board of directors for transmission to the governor and the general assembly. The said board is hereby authorized to buy such books on these subjects as may be necessary, the books to be the property of the hospital. It shall be the duty of the superintendents of other state hospitals to visit the hospital for the dangerous insane from time to time, and at least once a year each, for consultation and advice, and they shall report to the board of directors of the said hospital with such suggestions as they may deem proper and best for the government thereof, and for the treatment of the patients, but their powers shall be advisory only. They shall be allowed only their traveling expenses, to be paid by their respective institutions.

1901, c. 755, s. 5.

4507. Criminals adjudged to be insane, committed to. All persons who may hereafter commit crime while insane, and all persons, who being charged with crime, and are adjudged to be insane at the time of their arraignment, and for that reason can not be put on trial for the crimes alleged against them, shall be sent by the court before whom they are or may be arraigned for trial, when it shall be ascertained by due course of law that such person is insane and can not plead, to the hospital for the dangerous insane, and they shall be confined therein under the rules and regulations prescribed by the board of directors under the authority of this subchapter, and they shall be treated, cared for and maintained in said hospital like patients in other state hospitals. Their confinement in said hospital shall not be regarded as punishment for any offense: Provided, that no insane person who has been or may hereafter be committed to the state hospital at Morganton, Raleigh or Goldsboro shall be transferred therefrom to the hospital for the dangerous insane.

1899, c. 1, s. 63.

4508. Persons acquitted of certain crimes upon ground of insanity confined in. When a person is accused of the crime of murder, attempt at murder, rape, assault with the intent to commit rape, highway robbery, train wrecking, arson or other crime, shall have escaped indictment, or shall have been acquitted upon trial upon the ground of insanity, or shall be found by the court to be without sufficient mental capacity to undertake his defense or to receive sentence after conviction the court before which such proceedings are had, shall detain such person in custody until an inquisition shall be had in regard to his mental condition. The judge shall, at the term of court at which such person is acquitted, cause notice to be given in writing to such person and his attorney, and, if in his good judgment it be necessary, to his nearest relative, naming the day upon which he shall proceed to make an inquisition in regard to the

mental condition of such person. The judge shall cause such witnesses to be summoned and examined, all he may deem proper or as the person so acquitted or his counsel may desire. At such inquisition the judge shall cause the testimony to be taken in writing and be preserved, and a copy of which shall be sent to the superintendent of the hospitals for the dangerous insane to which such person is or has been committed. If, upon such inquisition, the judge shall find that the mental condition or disease of such person is such as to render him dangerous either to himself or other persons, and that his confinement for care, treatment, and security demands it, he shall commit such person to the hospital for dangerous insane, to be kept in custody therein for treatment and care as herein provided. Such person shall be kept therein, unless transferred under previous provisions of this chapter, until restored to his right mind, in which event it shall be the duty of the authorities having the care of such person to notify the sheriff of the county from which he came, who shall order that he appear before the judge of the superior court of the district, to be dealt with according to law. The expense incident to such commitment and removal shall be paid by the county authorities from which such patient was sent.

1899, c. 1, s. 65.

4509. Persons becoming insane in prison, confined in. All convicts becoming insane after commitment to the state's prison, and the fact being certified as now required by law in the case of other insane persons, shall be admitted to the hospital herein provided for. In case of the expiration of the sentence of any convict insane person, while such person is confined to the said hospital, such person shall be kept until restored to his right mind, or such time as he may be considered harmless and incurable.

1899, c. 1, s. 66.

4510. Person acquitted of capital felony upon ground of insanity; how discharged. No person acquitted of a capital felony, on the ground of insanity, and committed to the hospital for the dangerous insane, shall be discharged therefrom unless an act authorizing his discharge be passed by the general assembly. No person acquitted of a crime of lesser degree than a capital felony and committed to said department shall be discharged therefrom except upon an order from the governor. No person convicted of a crime, and upon whom judgment was suspended by the judge on account of insanity, shall be discharged from the said hospital except upon the order of the judge of the district, or of the judge holding the courts of the district in which he was tried: Provided, that nothing in this section shall be construed to prevent such person so confined

in the hospitals for the dangerous insane from applying to any judge having jurisdiction for a writ of habeas corpus. No judge, issuing a writ of habeas corpus upon the application of such person, shall order his discharge, until the superintendents of the several state hospitals shall certify that they have examined such person and find him to be sane, and that his detention is no longer necessary for his own safety or the safety of the public.

1899, c. 1, s. 67.

4511. Persons confined in; recovery; procedure. Whenever a person confined in any hospital for the insane, and against whom an indictment for crime is pending, has recovered or been restored to normal health and sanity, the superintendent of such hospital shall notify the clerk of the court of the county from which said person was sent, and the clerk will place the case against said person upon the docket of the superior or criminal court of his county for trial, and the person shall not be discharged without an order from said court. In all cases where such person confined in the hospital for the dangerous insane shall have recovered his mind, the clerk of the court of the county from which he was committed shall fix the amount of bail required for his appearance at the next term of the superior or criminal court of his county for trial, except in cases where the offense charged is a capital felony, and in this case only the judge of the superior court, residing within or holding the courts of said district, shall have the power to fix bail. If the person confined in the hospital for the dangerous insane, and reported sane as aforesaid, shall give the bond fixed by the clerk or judge as above provided for, he shall be discharged by the superintendent, and if he does not give the bond, he shall be transferred to the jail of the county from which he was committed. The superintendent will notify the sheriff of said county, and the sheriff will remove the said person to the jail of his county. The sheriff will pay the expenses of said removal, and the county of the person's settlement will repay the sheriff for his expenses and services.

1899, c. 1, s. 64.

4512. Annual appropriation for support of. The sum of five thousand dollars is hereby appropriated annually for the support and maintenance of the state hospital for the dangerous insane.

1901, c. 755, s. 7.

CHAPTER 100.

IMPEACHMENT.

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I. THE COURT.

4513. Senate; quorum. The court for the trial of impeachments shall be the senate. A majority of the members shall be necessary to constitute a quorum.

Const., Art. IV, s. 3; Code, ss. 2923, 2924; 1868-9, c. 168, s. 1.

4514. Chief justice presides, when. When the governor of the state, or lieutenant governor, upon whom the powers and duties of the office of governor have devolved, is impeached, the chief justice of the supreme court shall preside; and in a case requiring the chief justice to preside, notice shall be given him, by order of the senate, of the time and place fixed for the consideration of the articles of impeachment, with a request to attend; and the chief justice shall preside over the senate during the consideration of said articles upon the trial of the person impeached. But the chief justice shall not vote on any question during the trial, and shall pronounce decision only as the organ of the senate with its assent.

Const., Art. IV, s. 4; Code, s. 2927; 1868-9, c. 168, s. 6.

4515. Oath administered to members. At the time and place appointed, and before the commencement of the trial, the presiding officer of the senate shall administer to each member of the court then present, and to other members as they appear, an oath or affirmation, truly and impartially to try and determine the charge in question, under the constitution and laws, according to the evidence. No member of the court shall sit or give his vote upon the trial until he shall have taken such oath or affirmation.

Code, s. 2931; 1868-9, c. 168, s. 10.

4516. Power of. The senate, as a court, shall have power to compel the attendance of parties and witnesses to enforce obedience to its orders, mandates, writs, precepts and judgments, to preserve order, to punish, in a summary way, contempts of its authority, orders, mandates, writs, precepts or judgments, to adjourn from time to time, and to make all lawful rules and regulations which it may deem essential or conducive to the ends of justice.

Code, s. 2926; 1868-9, c. 168, s. 4.

4517. Power of presiding officer. The presiding officer of the senate shall have power—

1. To direct all necessary preparations in the senate chamber.
2. To make and issue by himself or by the clerk of the senate all orders, mandates, writs and precepts authorized by law or by the senate.
3. To direct all the forms of procedure during the trial not otherwise specially provided for.
4. To decide in the first instance, without a division, all questions of evidence and incidental questions, but the same shall, on demand of one-fifth of the members present, be decided by yeas and nays.

Code, s. 2927; 1868-9, c. 168, s. 5.

4518. Offenses of which it has jurisdiction. Every officer in this state shall be liable to impeachment for—

1. Corruption or other misconduct in his official capacity.
2. Habitual drunkenness.
3. Intoxication while engaged in the exercise of his office.
4. Drunkenness in any public place.
5. Mental and physical incompetence to discharge the duties of his office.
6. Any criminal matter, the conviction whereof would tend to bring his office into public contempt.

Code, s. 2937; 1868-9, c. 168, s. 16.

4519. Accused entitled to counsel. The person accused is entitled on the trial of the impeachment to the aid of counsel.

Code, s. 2929; 1868-9, c. 168, s. 8.

II. PROCEDURE.

4520. How preferred. All impeachments must be delivered by the house of representatives to the presiding officer of the senate, who shall thereupon cause proclamation to be made in the following words:

All persons are commanded to keep silence, on pain of imprisonment, while the house of representatives is exhibiting to the senate of North Carolina articles of impeachment against

After which the articles shall be exhibited, and then the presiding officer of the senate shall inform the house of representatives that the senate will take proper order on the subject of impeachment, of which due notice shall be given to the house of representatives.

Code, s. 2925; 1868-9, c. 168, ss. 2, 3.

4521. Of president of senate. If the president of the senate be impeached, notice thereof shall immediately be given to the senate

by the house of representatives, in order that another president may be chosen.

Code, s. 2935; 1868-9, c. 168, s. 14.

4522. Notice to accused. The senate, upon the presentation of articles of impeachment and its organization as a court, shall forthwith cause the person impeached to appear and answer the articles exhibited, either in person or by attorney. He shall be entitled to a copy of the impeachment and have a reasonable time to answer the same.

Code, s. 2928; 1868-9, c. 168, s. 7.

4523. Time of hearing. When issue is joined in the trial of an impeachment the court shall fix a time and place for the trial thereof.

Code, s. 2930; 1868-9, c. 168, s. 9.

4524. Accused suspended during trial. Every officer impeached shall be suspended from the exercise of his office until his acquittal.

Code, s. 2934; 1868-9, c. 168, s. 13.

4525. Conviction; judgment; indictment. No person shall be convicted on an impeachment without the concurrence of two-thirds of the senators present. Upon a conviction of the person impeached, judgment may be given that he be removed from office; or that he be disqualified to hold any office of honor, trust or profit, under this state, or both. Every person convicted on impeachment shall, nevertheless, be liable to indictment and punishment according to law.

Code, ss. 2932, 2933, 2936; 1868-9, c. 168, ss. 11, 12, 15; see Const., Art. IV, ss. 3, 4.

CHAPTER 101.

INSURANCE.

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I. TITLE AND DEFINITIONS.

4526. Title of the chapter. This chapter may be cited and shall be known as the insurance law.

1899, c. 54.

4527. Company; insurance company; domestic; foreign. When consistent with the context and not obviously used in a different sense, the term “company” or “insurance company,” as used herein, includes all corporations, associations, partnerships, or individuals engaged as principals in the business of insurance; the word “domestic” designates those companies incorporated or formed in this state and with home offices herein; and the word “foreign,” when used without limitation, includes all those formed by authority of any other state or government, and whose home office is not located in this state.

1899, c. 54, s. 1.

4528. Contract of insurance. A contract of insurance is an agreement by which one party for a consideration promises to pay money or its equivalent or to do some act of value to the assured upon the destruction, loss or injury of something in which the other party has an interest as an indemnity therefor.

1899, c. 54, s. 2.

II. DEPARTMENT AND COMMISSIONER.

4529. Department established; chief officer. The insurance department is hereby established as a separate and distinct department, which shall be charged with the execution of laws passed in relation to insurance and other subjects placed under such department. The chief officer of the department shall be denominated the insurance commissioner.

1899, c. 54, s. 3; 1901, c. 391, s. 1.

4530. Commissioner; how appointed; term of office; vacancy. The insurance commissioner shall be appointed by the governor by and with the consent of the senate. His term of office shall be four years and he shall continue in office until his successor is duly appointed and qualified. Should a vacancy occur during the term it shall be filled by the governor for the unexpired term.

1899, c. 54, s. 4.

4531. Oath and bond of commissioner. Every person elected or appointed as insurance commissioner shall, before entering upon the duties of the office, take an oath of office and give a bond to the state in the sum of ten thousand dollars, with sufficient surety, to be approved by the state treasurer, conditioned for the faithful performance of the duties of such office during the term of such appointment or election.

1899, c. 54, s. 5.

4532. Seal of the department. The insurance commissioner, with the approval of the governor, shall devise a seal, with suitable inscription, for his office, a description of which, with the certificate of approval by the governor, shall be filed in the office of the secretary of state, with an impression thereof, which seal shall thereupon be and become the seal of office of the commissioner of the insurance department. The seal may be renewed whenever necessary.

1899, c. 54, s. 11.

4533. Records and documents to be kept for public inspection. The insurance commissioner shall keep on file in his office, for the inspection of the public, all the reports received by him in obedience to law. He shall keep and preserve in a permanent form a record of his proceedings, including a concise statement of the result of all official examinations of companies, a report of the condition of receiverships of insolvent companies, an exhibit of the financial condition and business methods as disclosed by the official examinations of the same, or by their several statements; and such other information and comments in relation to insurance and the public in-

terest therein as he may deem fit and proper to preserve. He shall also keep the records of fires and matters connected therewith as required by section four thousand six hundred and fifty-six. He shall keep a record of the policies insuring property of the state, as required by section four thousand six hundred and sixty-three. He shall keep a record of the proceedings attending the service of process on him as agent for a foreign insurance company, as required by section four thousand six hundred.

1899, c. 54, ss. 9, 77.

4534. Original documents and certified copies, under seal of the department, to be received as evidence. Every certificate, assignment or conveyance executed by the commissioner, in pursuance of any authority conferred on him by law and sealed with his seal of office, shall be received as evidence and may be recorded in the proper recording offices, in the same manner and with like effect as a deed regularly acknowledged or proved before an officer authorized by law to take the proof or acknowledgment of deeds; and all copies of papers in the office of the commissioner, certified by him and authenticated by his official seal shall in all cases be evidence equally and in like manner as the original.

1899, c. 54, s. 11.

4535. On basis of other state departments; supplies, stamps. This department shall be upon the same basis as the other departments of the state, and shall be furnished with stationery, stamps, and such other supplies as are provided by law for them.

1899, c. 54, s. 3; 1901, c. 391, s. 1.

4536. Expenses of suppressing violations of this chapter. For expenses in seeking out, detecting and punishing violations of this chapter, the insurance commissioner may use a sum not exceeding five hundred dollars per annum. Any amounts so expended shall be approved by the governor and paid by the treasurer out of any funds in the state treasury not otherwise appropriated.

1899, c. 54, s. 101; 1901, c. 391, s. 8; 1903, c. 438, s. 10.

4537. Reports of commissioner to the governor and general assembly. The commissioner shall annually submit to the governor a report of his official acts, and of the condition of all insurance and other companies, associations or orders under his department doing business in this state, with a condensed statement of their reports made to him, arranged in proper form for printing, together with a statement of the licenses, taxes and fees received by him from such companies and paid by him to the state treasurer; and he shall

biennially submit to the general assembly, through the governor, such annual reports and statements.

1899, c. 54, s. 6.

4538. Further reports to the general assembly. It shall be the duty of the insurance commissioner from time to time to report to the general assembly any change which in his opinion should be made in the laws relating to insurance and other subjects appertaining to his department. And he shall, on or before the first day of February of each year in which the general assembly is in session, make to the governor the recommendations called for in this section, to be transmitted to the general assembly, with the last annual report of this department, including receipts and disbursements; and five hundred copies for the use of the commissioner and the usual number for the use of the general assembly shall be printed by the public printer.

1899, c. 54, ss. 7, 10; 1901, c. 391, s. 2.

4539. Duties of commissioner. The insurance commissioner shall see that all laws relating to the companies, associations and orders under the insurance department are faithfully executed. He shall furnish to each of the companies incorporated by this state and to the attorneys or general agents of companies and associations incorporated by other states and foreign governments, doing business in this state, printed forms for all statements required by law. He shall, on or before the tenth day of each month, pay over all taxes, licenses and fees which he may have received during the previous month to the state treasurer. He shall perform all duties now imposed upon him by law in regard to the examination, supervision and conduct of companies and associations and orders. He may administer the oaths in the discharge of his official duty. Upon a proper application by any citizen of this state he shall give a statement or synopsis of the provisions of any insurance contract offered or issued to such citizen.

1899, c. 54, s. 8.

4540. Authority extends to all insurance companies. Every insurance company, association or order, as well as every bond, investment, dividend, guarantee, registry, title guarantee, debenture, or such other like company (not strictly an insurance company, as defined in the general insurance laws), shall be licensed and supervised by the insurance commissioner, and shall pay all licenses, taxes and fees as prescribed in the insurance laws of the state for the class of company, association or orders to which it may belong. No provision in any statute, public or private, shall have the effect of relieving any company, association or order from any such super-

vision as is prescribed for the class of companies, associations or orders of like character, or of releasing it from the payment of such licenses, taxes and fees as are prescribed for companies, associations and orders of the same class; and all such special provisions or exemptions are hereby repealed. It shall be unlawful for the insurance commissioner to grant or issue a license to any company, association or order, or agent for them, claiming such exemption from supervision by his department and release for the payment of license, fees and taxes.

1903, c. 594, ss. 1, 2, 3.

4541. Examinations and licenses; production of books and papers enforced; officers, agents, etc., examined under oath. Before granting certificates of authority to an insurance company to issue policies or make contracts of insurance the commissioner shall be satisfied, by such examination and evidence as he sees fit to make and require, that such company is otherwise duly qualified under the laws of the state to transact business therein. As often as once in three years he shall personally or by his deputy visit each domestic insurance company and thoroughly inspect and examine its affairs, especially as to its financial condition and ability to fulfil its obligations and whether it has complied with the laws. He shall also make an examination of any such company whenever he deems it prudent to do so, or upon the request of five or more of the stockholders, creditors, policy-holders or persons pecuniarily interested therein, who shall make affidavit of their belief, with specifications of their reasons therefor, that such company is in an unsound condition. Whenever he deems it prudent for the protection of policyholders in this state he shall in like manner visit and examine, or cause to be visited and examined by some competent person whom he may appoint for that purpose, any foreign insurance company applying for admission or already admitted to do business in this state, and such company shall pay the proper charges incurred in such examination, including the expenses of the commissioner or his deputy and the expenses and compensation of his assistants employed therein. For such purposes the commissioner or his deputy or persons making the examination shall have free access to all the books and papers of the insurance company that relate to its business, and to the books and papers kept by any of its agents, and may summon, administer oaths to, and examine as witnesses, the directors, officers, agents and trustees of any such company, and any other persons, in relation to its affairs, transactions and conditions.

1899, c. 54, s. 13.

4542. To require oath of obedience. Before issuing license to any insurance company to transact the business of insurance in this

state, the insurance commissioner shall require, in every case, in addition to the other requirements provided for by law, that each and every such insurance company shall file with him the affidavit of its president or other chief officer that it has not violated any of the provisions of this chapter for the space of twelve months last past, and that it accepts the terms and obligations of this chapter as a part of the consideration of such license.

1899, c. 54, s. 110; 1901, c. 391, s. 8.

4543. Investigation of charges of violation of the law. Upon complaint being filed by any citizen of this state that any company authorized to do business in this state has violated any of the provisions of this chapter, the insurance commissioner shall diligently investigate the matter, and, if necessary, examine, by himself or his accredited representative, at the head office located in the United States, the president and such other officer or agents of such companies as may be deemed proper; also all books, records and papers of the same, and also the officers thereof under oath, as to such alleged violation. Before making such examination the insurance commissioner may require the party making complaint to file with him a good and sufficient bond to secure any expense or cost that may be necessary in making such examination, and in the event that the insurance company be found not guilty of a violation of this chapter, the bond shall be responsible for all expenses incurred by reason of such investigation; but should the company be found guilty of a violation of this chapter then it shall be responsible for the expense of such examination.

1899, c. 54, s. 111; 1903, c. 438, s. 11.

4544. Action by commissioner to collect expenses of examination. If any company, authorized to do business in this state under this chapter, shall fail or refuse to pay the expenses of examination upon the presentation of a bill therefor by the insurance commissioner, then such commissioner shall at once institute appropriate action against such company for the recovery of the same.

1899, c. 54, s. 113.

4545. Record of business done to be kept by companies, agents and brokers; commissioner may inspect. All companies, agents and brokers doing any kind of insurance business in this state shall make and keep a full and correct record of the business done by them, showing the number, date, term, amount insured and premiums and the persons to whom issued of each and every policy or certificate or renewal. Information from such records shall be furnished to the insurance commissioner on demand, and the original

books of records shall be open to the inspection of the commissioner, his deputy or clerk, when demanded.

1899, c. 54, s. 108; 1903, c. 438, s. 11.

Note. Violation of this section made a misdemeanor, see Crimes.

4546. May require books, papers, etc., to be exhibited. It shall be the duty of any person having in his possession or control any books, accounts or papers of any company, order or person licensed under this chapter, to exhibit the same to the insurance commissioner on demand.

1899, c. 54, s. 76.

Note. Refusal to exhibit books, etc., on false statement made misdemeanor, see Crimes.

4547. Annual statements, under oath, to be filed with the commissioner; blanks to be furnished. Every insurance company, association or order—domestic, through its officers, and foreign, through its general agent—shall file in the office of the insurance commissioner, on or before the first day of March in each year, in such form and in such detail as the insurance commissioner shall prescribe, a statement showing the business standing and financial condition of such company, association or order on the preceding thirty-first day of December, signed and sworn to by the chief managing agent or officer thereof, before the insurance commissioner or some officer authorized by law to administer oaths. The insurance commissioner shall, in December of each year, furnish to each of the insurance companies authorized to do business in the state two or more blanks adapted for their annual statements.

1899, c. 54, ss. 72, 73, 83, 97, 90; 1901, c. 706, s. 2; 1903, c. 438, s. 9.

Note. Violation of this section subjects the company to penalties, see sec. 4671; and is also made a crime, see Crimes.

4548. Examination of statements; publication of abstract. It shall be the duty of the insurance commissioner to receive and thoroughly examine each annual statement required by this chapter, and, if made in compliance with the laws of this state, to publish, at the expense of the company, an abstract of the same in one of the newspapers of the state, which newspaper may be selected by the general agent making such statement, if he shall, within thirty days after the filing of such statement, notify the insurance commissioner, in writing, of the name of the paper selected by him.

1899, c. 54, s. 74; 1901, c. 391, s. 6.

4549. Certificates as to statements and licenses to be sent to superior court clerks; clerks' duties. The insurance commissioner shall keep on file in his office, for the inspection of the public, all the reports received by him in obedience to this chapter, and shall certify to the clerk of the superior court of each and every county

an abstract of each annual statement at the expense of the company making the same, and receive therefor from each company the sum of four dollars, and he shall also certify, at like expense, to such clerks, on the first day of each alternate month, a list of the licenses in force at such dates and those that have expired without renewal or that have been revoked, and each clerk shall file such certified abstracts and lists in stub books, to be kept for that purpose, furnished by the insurance commissioner, which books shall be open for the inspection of the public. There shall be no tax for any seal on the certificates required by this section.

1899, c. 54, s. 77; 1901, c. 391, s. 6; 1903, c. 438, s. 7.

4550. Revocation of license to foreign company; publication of notice; effect. If the insurance commissioner be of opinion, upon examination or other evidence, that a foreign insurance company is in an unsound condition, or, if a life insurance company, that its actual funds, exclusive of its capital, are less than its liabilities; or, that it has failed to comply with the law, or, if it, its officers or agents refuse to submit to examination or to perform any legal obligation in relation thereto, or, if any foreign insurance company shall apply to have removed from the superior court of any county of this state to the United States circuit or district court any action instituted against it, or shall institute any action at law or suit in equity in a United States court against any citizen of this state, growing out of or in any way connected with any policy of insurance issued by such insurance company, he shall revoke or suspend all certificates of authority granted to it or its agents, and shall cause notifications thereof to be published in one or more newspapers published in this state; and no new business shall thereafter be done by it or its agents in this state while such default or disability continues, or until its authority to do business is restored by the commissioner.

1899, c. 54, s. 14; 1901, c. 176, s. 1.

4551. Revocation of license to domestic company; injunction and receiver. If, upon examination, the insurance commissioner be of opinion that any domestic insurance company is insolvent, or has exceeded its powers, or has failed to comply with any provision of law, or that its condition is such as to render its further proceeding hazardous to the public or to its policy-holders, he shall revoke its license, and, if he deem it necessary, he shall apply to a judge of the superior court to issue an injunction restraining it in whole or in part from further proceeding with its business. Such judge may in his discretion issue the injunction forthwith, or upon notice and hearing thereon, and after a full hearing of the matter may dissolve or modify such injunction or make it permanent, and may make all

orders and judgments needful in the premises, and may appoint agents or a receiver to take possession of the property and effects of the company and to settle its affairs, subject to such rules and orders as the court may from time to time prescribe.

1899, c. 54, s. 14.

4552. Revocation as to either for violations of law or impaired assets. 1. The authority of a domestic or foreign insurance company may be revoked if it shall violate or neglect to comply with any provision of law obligatory upon it, and whenever in the opinion of the insurance commissioner its condition is unsound, or its assets above its liabilities, exclusive of capital and inclusive of reserve or unearned premiums estimated as provided by this chapter, are less than the amount of its original capital or required unimpaired funds.

2. If the insurance commissioner shall become satisfied at any time that any statements made by any company licensed under this chapter shall be untrue, or in case a general agent shall fail or refuse to obey the provisions of this chapter, the insurance commissioner shall have power to revoke and cancel such license.

1899, c. 54, ss. 66, 75; 1901, c. 391, s. 5.

4553. Liabilities and reserve fund, how determined. To determine the liability upon its contracts of an insurance company, other than life and real estate title insurance, and thence the amount such company shall hold as a reserve for re-insurance, the insurance commissioner shall take the actual unearned portion of the premiums written in its policies.

1899, c. 54, s. 67; 1901, c. 391, s. 5.

4554. Further provisions as to revocation of license to foreign or domestic companies. Any insurance company violating any provision of this chapter, or refusing to submit to the examination provided for in section four thousand five hundred and forty-three when requested, shall forfeit its right to do business in this state for the twelve months thereafter, and the insurance commissioner shall immediately revoke the license already issued to such insurance company to do business in this state.

1899, c. 54, s. 112.

4555. Agents must procure license. Every agent of any insurance company authorized to do business in this state shall be required to obtain annually from the insurance commissioner a license under the seal of his office, showing that the company for which he is agent is licensed to do business in this state, and that he is an agent of such company and duly authorized to do business for it.

And every such agent, on demand, shall exhibit his license to any officer or to any person from whom he shall solicit insurance.

1899, c. 54, s. 81; 1901, c. 391, s. 7; 1903, c. 438, s. 8, c. 774.

Note. Violation of this section made a misdemeanor, see Crimes.

4556. Nonresident agents forbidden; exception. No nonresident of the state shall be licensed to do business in the state, except as a special agent or organizer, and then only when he reports his business for record as North Carolina business to some general or district agent of his company in the state, or having territory within the state.

1899, c. 54, s. 108; 1903, c. 438, s. 11.

III. FORMS OF RETURNS.

4557. Commissioner to furnish blanks; forms prescribed. It shall be the duty of the insurance commissioner to furnish blank forms for statements, which forms may be by him from time to time changed as may be requisite to secure full information as to the standing, condition and such other information desired of companies in his department. The following, or such other forms as he may prescribe, shall be used:

Return of companies, other than life companies, having capital stock.

1. State the name of company. 2. Where located. 3. When incorporated and for what period. 4. Amount of capital. 5. Amount of capital actually paid in. 6. Cash value of real estate owned. 7. Amount loaned on mortgage on real estate. 8. Amount and description of each kind of bonds and stocks owned, with par and market value. 9. Amount loaned on collateral, with par and market value of each security pledged. 10. Amount of cash on hand. 11. Amount of gross premiums in course of collection. 12. Amount of bills receivable, not matured, taken for premiums. 13. Amount of all other property or investments. 14. All outstanding losses. 15. Amount of unearned premiums on policies in force. 16. All other liabilities and claims against the company. 17. Amount of cash received for premiums. 18. Amount of notes received for premiums. 19. Amount received for interest and rents. 20. Amount of income received from all other sources. 21. Amount paid for losses. 22. Amount paid for dividends. 23. Amount paid for expenses. 24. All other expenditures. 25. Amount of risks written, terminated and in force, with gross premiums thereon.

Return of mutual companies, other than life.

1. State the name of company. 2. Where located. 3. When incorporated, and for what period. 4. Amount of guarantee capi-

tal, if any. 5. Cash value of real estate owned. 6. Amount loaned on mortgage of real estate. 7. Amount and description of each kind of stocks and bonds owned, with par and market value. 8. Loans on collateral, with par and market value of each security pledged. 9. Cash in office and in bank. 10. Gross premiums in course of collection. 11. All other loans, investments and property. 12. Premium notes liable to assessment. 13. Amount of scrip outstanding. 14. All outstanding losses. 15. Unearned premiums. 16. Dividends declared and unpaid. 17. Borrowed money. 18. All other liabilities and claims against the company. 19. Cash received for premiums. 20. Cash received for interest and rent. 21. Premium notes received. 22. Income from all other sources. 23. Amount paid for losses. 24. Amount paid for expenses. 25. Surplus returned to policyholders. 26. All other expenditures. 27. Scrip dividends declared. 28. Amount of risks written, terminated and in force, with gross premiums thereon.

Return of life insurance companies.

1. The name of the company. 2. Where located. 3. When incorporated and for what period. 4. Amount of capital stock or guarantee fund. 5. Cash value of real estate owned. 6. Amount loaned on mortgages of real estate. 7. Amount and description of each kind of bonds and stocks owned, with their par and market value. 8. Loans on collateral, with par and market value of each security pledged. 9. Cash in bank and in office. 10. Premium notes and loans on policies in force. 11. Outstanding and deferred premiums on policies in force. 12. All other loans, investments and property. 13. All outstanding losses and policy claims. 14. Dividends of surplus due policyholders. 15. Forfeitures and surplus accrued, held for and to be divided to any special class of policyholders; surplus accrued in policies in force not yet distributed. 16. All other liabilities and claims against the company. 17. Cash received for premiums. 18. Cash received for interest and rents. 19. Income from all other sources. 20. Amount paid for losses and claims. 21. Dividends of surplus to policyholders. 22. Amount paid for expenses. 23. All other expenditures. 24. Number, date, amount and kind of each outstanding policy not heretofore returned, gross premium thereon, and age of the insured. 25. Number, date and amount of each policy which has within the year ceased to be in force, now terminated, what has been paid to the legal holder of the policy, and the age of the insured.

1899, c. 54, s. 104.

IV. DEPOSITS.

4558. By domestic and foreign companies; where made; income on; charges in; return of; actions to enforce, terminate the trust. The insurance commissioner or the treasurer, in their official capacity, shall take and hold in trust deposits made by any domestic insurance company for the purpose of complying with the laws of any other state to enable such company to do business in such state. The company making such deposit shall be entitled to the income thereof, and may from time to time, with the consent of the insurance commissioner or treasurer, and, when not forbidden by the law under which the deposit is made, change in whole or in part the securities which compose the deposit for other solvent securities of equal par value. Upon request of any domestic insurance company such officer may return to such company the whole or any portion of the securities of such company held by him on deposit, when he shall be satisfied that the securities so asked to be returned are subject to no liability and not required to be longer held by any provision of law or purpose of the original deposit. And he may return to the trustees or other representatives authorized for that purpose of a foreign insurance company, any deposit made by such company when it shall appear that such company has ceased to do business in the state and is under no obligation to policyholders or other persons in the state for whose benefit such deposit was made. An insurance company which has made a deposit in this state pursuant to this chapter, or its trustees or resident managers in the United States, or the insurance commissioner, or any creditor of such company, may at any time bring in the superior court for the county of Wake an action against the state and other parties properly joined therein, to enforce, administer or terminate the trust created by such deposit. The process in such action shall be served on the officer of the state having the deposit, who shall appear and answer in behalf of the state and perform such orders and judgments as the court may make in such action.

1899, c. 54, s. 17; 1901, c. 391, s. 2; 1903, c. 438, s. 1; 1903, c. 536, s. 4.

4559. By domestic companies, subject to approval and control of the commissioner. The deposits of securities now required or which may hereafter be required to be made by any insurance company of this state, shall be approved by the insurance commissioner of this state, and he shall have authority to examine the same at all times, and may order the same, or any part thereof, changed for better security, in his discretion, and no change or transfer of the same shall be made without his assent.

1903, c. 536, s. 5.

4560. By foreign companies, when required and how regulated.

A foreign company, if incorporated or associated under the laws of any government or state other than the United States or one of the United States, shall not be admitted to do business in this state until, besides complying with the conditions by law prescribed for the licensing and admission of such companies to do business in this state, it has made a deposit with the treasurer or insurance commissioner of this state, or with the financial officer of some other state of the United States, of a sum not less than the capital required of like companies under this chapter. Such deposit must be in exclusive trust for the benefit and security of all the company's policyholders and creditors in the United States, and may be made in the securities, but subject to the limitations, specified in this chapter with regard to the investment of the capital of domestic companies formed and organized under the provisions of this chapter. Such deposit shall be deemed for all purposes of the insurance law the capital of the company making it.

1899, c. 54, s. 64; 1903, c. 438, s. 6.

4561. By life companies not chartered in this country. Every life insurance company organized under the laws of any other country than the United States, must have and keep on deposit with some state insurance department or in the hands of trustees, in exclusive trust for the security of its contracts with policyholders in the United States, funds of an amount equal to the net value of all its policies in the United States and not less than two hundred thousand dollars.

1899, c. 54, s. 56.

4562. Foreign assessment companies or orders. Every foreign insurance company, association, or order, doing business in this state on the assessment plan, shall keep at all times deposited in their head office in this state, or in some responsible banking or trust company, one regular assessment sufficient to pay the average loss or losses occurring among its members in this state during the time allowed by it for the collection of assessments and payment of losses. It shall notify the insurance commissioner of such place of deposit and furnish him at all times such information as he may require in regard thereto.

1899, c. 54, s. 84; 1903, c. 438, s. 9.

V. TAXES AND FEES.

4563. To be reported monthly and paid to treasurer. On or before the tenth day of each month the insurance commissioner shall furnish to the auditor a statement in detail of the taxes and license

fees received by him under this chapter during the previous month, and shall pay to the treasurer the amount in full of such taxes and license fees.

1899, c. 54, s. 82; 1901, c. 391, s. 7.

4564. Schedule of. The insurance commissioner shall collect and pay into the state treasury fees, taxes and charges as follows:

1. He shall collect annually for each license issued to a life insurance company or association, two hundred and fifty dollars; for each license issued to a fire insurance company or association, or to any company or association of companies operating a separate or distinct plant of agencies in the state, two hundred dollars; for each license issued to an accident insurance company or association, two hundred dollars; for each license issued to a marine insurance company or association, two hundred dollars; for each license issued to a surety insurance company or association, one hundred dollars; for each license issued to a plate-glass insurance company or association, one hundred dollars; for each license issued to a boiler insurance company or association, one hundred dollars; for each license issued to all other insurance companies or associations, one hundred dollars; for each license issued to a fraternal order, twenty-five dollars; for each license issued to a bond, investment, dividend, guarantee, registry, title guarantee, debenture or such other like company (not strictly an insurance company as defined in this chapter) when foreign, one hundred dollars, when domestic, twenty-five dollars; for each license issued to a domestic mutual insurance company issuing only mutual policies, fifty dollars, and where such company operates in not more than two counties, ten dollars.

2. He shall collect semi-annually from all of such companies, except fraternal orders, a tax of two and a half per centum upon the amount of their gross premium receipts in this state: Provided, that if any general agent shall file with the insurance commissioner a sworn statement showing that at least one-quarter of the entire assets of his company, when his company has assets, are invested in and are maintained in any or all of the following securities or property, viz.: bonds of this state, or of any county, city or town of this state, or any property situate in this state and taxable therein, then the tax shall be one per centum upon the gross receipts aforesaid, and the license fee shall be one-half that named above; and if the amount so invested shall be three-fourths of the total assets the tax shall be one-half of one per centum and the license fee one-fourth of that named above.

3. He shall collect annually for license issued to each general

agent, five dollars; for license issued each special or district agent or manager or organizer (including seal), three dollars; for license (including seal), to each local or canvassing agent, one dollar; but any such company having assets invested and maintained in bonds of this state or of any county, city or town of this state, or in any property situated in this state and taxable therein, amounting to three-fourths of its total assets, shall only be charged for such license fifty cents. In case of loss or destruction of such license the insurance commissioner, for a fee of fifty cents, may certify to its issuance, giving number, date and form, which may be used by the original party named therein in lieu of said original license. There shall be no charge for the seal affixed to such certificate or said license.

4. He shall collect annually twenty dollars for each license issued to a broker, authorized to procure insurance in nonadmitted companies, and also of such broker a tax of five per centum on gross premium receipts.

5. He shall collect for filing and examining statement preliminary to admission, twenty dollars; for filing and auditing annual statement, ten dollars; for filing any other papers required by law, one dollar; for each certificate of examination, condition or qualification of company or association two dollars; for each seal when required, one dollar; for each examination of domestic company, twenty-five dollars; for each examination of foreign company, fifty dollars; for filing charter and other papers of a fraternal order, preliminary to admission, twenty-five dollars.

6. He shall collect semi-annually from all fire insurance companies doing business in the state a tax of one-fifth of one per centum on their gross premium receipts, as returned by them; which tax shall be used for defraying the expenses incurred by the insurance commissioner in the performance of the duties imposed upon him by subchapter fifteen hereof.

7. He shall collect, to be paid to the publisher, for the publication of each financial statement, nine dollars.

8. The commissioner shall receive for copy of any record or paper in his office ten cents per copysheet and one dollar for certifying same, or any fact or data from the records of his office; for making and mailing abstracts to the clerks of the superior courts in the counties of the state, four dollars; also for examination of any foreign company, twenty-five dollars per diem and all expenses, and for examining any domestic company actual expenses incurred; for the examination and approval of charters of companies five dollars; also to defray the expense of computing the value of the policies of domestic life insurance companies, one cent for every thousand dollars of the whole amount insured by its policies so valued.

9. He shall collect all other fees and charges due and payable into

the state treasury by any company, association, order or individual in his department.

1899, c. 54, ss. 82, 80, 50, 87, 68, 81, 90, 92; 1901, c. 391, s. 7, c. 706, s. 2; 1903, c. 438, ss. 7, 8; 1903, c. 536, s. 4; 1903, cc. 680, 774.

4565. No additional tax, license or fee by counties, etc. No county or corporation shall be allowed to impose an additional tax, license or fee upon any insurance company or agent.

1899, c. 54, s. 79; 1901, c. 391, s. 7; 1903, c. 438, s. 8.

4566. License tax on companies doing more than one class of insurance. No insurance company admitted to do business in the state shall be authorized to transact more than one class or kind of insurance therein, unless it shall pay the license fees for each class; but a life insurance company may do a health business, and a fire insurance company may insure against loss or damage to property by lightning, wind, hail, or tornado, use and occupancy, and for non-occupancy, and may insure vessels, freights, goods, money, effects, and money lent on bottomry or respondentia against the perils of the sea and other perils usually insured against by marine insurance, including risks of inland navigation and transportation; and may also insure against loss or damage by water to any goods or premises arising from leakage of sprinklers and waterpipes, upon the payment of the largest license fees provided in this chapter for any one business done. No insurance company shall be required to pay license fees amounting in the aggregate to more than three hundred and fifty dollars per annum.

1899, c. 54, s. 65; 1901, c. 391, s. 5; 1903, c. 438, s. 6.

4567. Licenses run from April first; pro rata may be paid, when. The licenses required by this chapter shall continue for the next ensuing twelve months after April first of each year, unless revoked as provided in this chapter; but the insurance commissioner may receive from applicants after April first so much of the license fee required by law as may be due pro rata for the remainder of the year, beginning with the first day of the current month.

1899, c. 54, s. 78.

4568. Sworn statements of gross receipts filed and the tax paid. Every general agent shall, within the first thirty days of January and July of each year, make a full and correct statement, under oath of himself and of the president, secretary or some officer at the home or head office of the company in this country, of the amount of the gross receipts derived from the insurance business under this chapter obtained from residents of this state, or on property located therein during the preceding six months, and shall, within the first fifteen days of February and August of

each and every year, pay to the insurance commissioner the tax imposed by this chapter upon such gross receipts.

1899, c. 54, s. 79; 1901, c. 391, s. 7; 1903, c. 438, s. 8.

4569. Policyholders to furnish information on demand of the commissioner. To enable the insurance commissioner the better to enforce the payment of the taxes imposed by this chapter, every corporation, firm or individual doing business in the state shall, upon demand of the commissioner, furnish to him upon blanks to be provided by him, a statement of the amount of all insurance held by them, giving the name of the company, number and amount of policies and the premiums paid on each, and such other information as the commissioner may call for, or shall file an affidavit with the commissioner that all of their insurance is placed in companies licensed to do business in this state.

1899, c. 54, s. 79; 1901, c. 391, s. 7; 1903, c. 438, s. 8.

VI. DOMESTIC COMPANIES.

4570. This chapter and general laws, how far applied to existing companies. The general provisions of law relative to the powers, duties and liabilities of corporations shall apply to all incorporated domestic insurance companies, so far as such provisions are pertinent and not in conflict with other provisions of law relative to such companies or with their charters. All insurance companies of this state shall be governed by this chapter, anything in their special charters to the contrary notwithstanding, provided notice of the acceptance of this chapter is filed with the insurance commissioner.

1899, c. 54, s. 19.

4571. Extension of existing charters beyond time limited. Domestic insurance companies incorporated by special acts, whose charters are subject to limitation of time, shall after such limitation expires continue to be bodies corporate, subject to all general laws applicable to such companies upon filing statement and paying the taxes and fees required for an amendment of the charter.

1899, c. 54, s. 20.

4572. Must obtain certificate and authority before issuing policies. No domestic insurance company shall issue policies until upon examination of the insurance commissioner, his deputy or examiner, it is found to have complied with the laws of the state, nor until it has obtained from the insurance commissioner a certificate setting forth that fact and authorizing it to issue policies. The issuing of policies in violation of this section shall render the company liable

to the forfeiture prescribed by law; but such policies shall, nevertheless, be binding upon the company.

1899, c. 54, ss. 21, 99; 1903, c. 438, s. 10.

Note. Violation of this section subjects offender to a forfeiture, see s. 4669.

4573. By-laws; directors divided into classes; election of directors. Any domestic company may adopt by-laws for the conduct of its business not repugnant to law or to its charter, and therein provide for the division of its board of directors into two, three or four classes, and the election thereof at its annual meetings in such manner as that the members of one class only shall retire and their successors be chosen each year. Vacancies in any such class may be filled by election by the board for the unexpired term.

1899, c. 54, s. 22.

4574. Real estate, purchase and conveyance of; restrictions on holding. Any company organized by special charter of this state, or under the provisions of the general insurance laws of this state, shall be permitted to purchase, hold and convey real estate for the purposes, and no other, and in the manner herein set forth, that is to say:

1. Such as shall be requisite for its immediate accommodation in the transaction of its business.

2. Such as shall have been mortgaged to it in good faith by way of security for loans previously contracted or for moneys due.

3. Such as shall have been conveyed to it in satisfaction of debts previously contracted in the course of its dealings.

4. Such as shall have been purchased at sales upon judgments, decrees or mortgages obtained or made for such debts.

5. It shall not be lawful for any such incorporated company to purchase, hold real estate in any other case or for any other purpose; and all such real estate as may be acquired and which shall not be necessary for the accommodation of such company, in the convenient transaction of its business, shall be sold and disposed of within five years after such company shall have acquired title to the same, and it shall not be lawful for such company to hold such real estate for a longer period than that above mentioned, unless the company shall have acquired such real estate prior to March sixth, one thousand eight hundred and ninety-nine, or shall procure a certificate from the insurance commissioner that the interest of the company will suffer materially by a forced sale of such real estate, in which event the time for the sale may be extended to such a time as the insurance commissioner shall direct in such certificate. Nothing herein contained shall prevent any insurance company from improving and conveying its real estate, notwithstanding the lapse

of five years from its acquisition thereof without having procured such certificate from the insurance commissioner.

1903, c. 536, s. 2; 1899, c. 54, s. 22.

4575. Formed under articles of agreement; confined to business specified. Insurance companies may be formed as provided in the two next succeeding sections for any one of the following purposes, to-wit:

1. To insure against loss or damage to property by fire, lightning, wind, hail, or tornado, use and occupancy, and for nonoccupancy, upon the stock or mutual plan.

2. To insure upon the stock or mutual plan, vessels, freights, goods, money, effects, and money lent on bottomry or respondentia against the perils of the sea and other perils usually insured against by marine insurance, including risks of inland navigation and transportation.

3. To guarantee the fidelity of persons in positions of trust, private or public, and to act as surety on official bonds and for the performance of other obligations.

4. To insure against loss or damage to property of the assured, or loss or damage to the life, person or property of another for which the assured is liable, caused by the explosion of steam boilers.

5. To insure any person against bodily injury or death by accident, or any person, firm or corporation against loss or damage on account of the bodily injury or death by accident of any person, for which loss or damage such person, firm or corporation is responsible.

6. To insure against the breakage of plate-glass, local or in transit.

7. To insure against loss or damage by water to any goods or premises arising from leakage of sprinklers and water pipes.

8. To insure against loss or damage to property arising from accidents to elevators, bicycles and vehicles, except rolling stock of rail-ways.

9. To carry on the business commonly known as credit insurance or guaranty, either by agreeing to purchase uncollectible debts or otherwise to insure against loss or damage from the failure of persons indebted to the assured to meet their liabilities.

10. To carry on the business commonly known as life and health insurance on the stock or mutual plan, contract for the payment of endowments or annuities, or make and enter into such other contracts, conditioned upon the continuance or cessation of human life. To insure horses and other live stock against death.

No corporation so formed shall transact any other business than that specified in its charter and articles of association.

1899, c. 54, ss. 24, 26; 1903, c. 438, s. 1.

4576. Procedure for organizing; form of articles and certificate. The procedure for organizing such corporations shall be as follows: The proposed corporators, not less than ten in number, a majority of whom must be residents of the state, shall subscribe articles of association setting forth their intention to form a corporation; its proposed name, which must not so closely resemble the name of an existing corporation doing business under the laws of this state as to be likely to mislead the public, and must be approved by the insurance commissioner; the class of insurance it proposes to transact and on what business plan or principle; the place within the state of its location, and, if on the stock plan, the amount of its capital stock. The words "insurance company," "insurance association" or "insurance society" must be a part of the title of any such corporation, and also the word "mutual," if it is organized upon the mutual principle. The certificate of incorporation shall be subscribed and sworn to by the corporators before some officer authorized to take acknowledgment of deeds, and such officer shall forthwith certify the certificate of incorporation, as so made out and signed, to the insurance commissioner of the state at his office in the city of Raleigh. The insurance commissioner shall examine the certificate and, if he shall approve of the same and find that the requirements of the law have been complied with, shall certify such facts, by certificate on such articles, to the secretary of state. Upon the filing in the office of the secretary of state of the certificate of incorporation and attached certificates, and the payment of a charter fee in same amount as is required for private corporations, and the same fees to the secretary of state, the secretary of state shall cause the certificate and accompanying certificates to be recorded in his office and shall issue a certificate in the following form:

Be it known that whereas (here the names of the subscribers to the articles of association shall be inserted) have associated themselves with the intention of forming a corporation under the name of (here the name of the corporation shall be inserted), for the purpose (here the purpose declared in the articles of association shall be inserted), with a capital (or with a permanent fund) of (here the amount of capital or permanent fund fixed in the articles of association shall be inserted), and have complied with the provisions of the statute of this state in such case made and provided, as appears from the following certified articles of association: (Here copy articles of association and accompanying certificates.) Now, therefore, I (here the name of the secretary shall be inserted), secretary of state, do hereby certify that (here the names of the subscribers to the articles of association shall be inserted), their associates and successors, are legally organized and established as, and are hereby made, an existing corporation under the name of (here the name of the corporation shall be inserted), with such articles of association, and have all the powers, rights and privileges and subject to the duties, liabilities and restrictions which by law appertain thereto.

Witness my official signature hereunto subscribed, and the seal of the state of North Carolina hereunto affixed, this the day of, in the year (in these blanks the day, month and year of execution of this certificate shall be inserted; and in the case of purely mutual companies, so much as relates to capital stock shall be omitted).

The secretary of state shall sign the same and cause the seal of the state to be thereto affixed, and such certificate of incorporation and certificate shall have the force and effect of a special charter and be conclusive evidence of the organization and establishment of such corporation. The secretary of state shall also cause a record of such certificate to be made, and a certified copy of such record may be given in evidence with the like effects as the original certificate.

1899, c. 54, s. 25; 1903, c. 438, ss. 2, 3.

4577. First meeting; organization; by-laws; license from commissioner. The first meeting for the purpose of organization under such charter shall be called by a notice signed by one or more of the subscribers to the certificate of incorporation, stating the time, place and purpose of the meeting, a copy whereof shall, seven days at least before the appointed time, be given to each subscriber, or left at his usual place of business or residence, or duly mailed to his postoffice address, unless the signers shall waive notice in writing. Whoever gives such notice shall make affidavit thereof, which affidavit shall include a copy of the notice and be entered upon the records of the corporation. At such first meeting, including any adjournment thereof, an organization shall be effected by the choice of a temporary clerk, who shall be sworn; by the adoption of by-laws; and by the election of directors and such other officers as the by-laws may require; but at such first meeting no person shall be elected director who has not signed the certificate of incorporation. The temporary clerk shall record the proceedings until and including the choice and qualification of the secretary. The directors so chosen shall elect a president, secretary and other officers which, under the by-laws they are so authorized to choose. The president, secretary and a majority of the directors shall forthwith make, sign and swear to a certificate setting forth a copy of the certificate of incorporation, with the names of the subscribers thereto, the date of the first meeting and of any adjournments thereof, and shall submit such certificate and the records of the corporation to the insurance commissioner, who shall examine the same, and who may require such other evidence as he may deem necessary. If upon such examination the insurance commissioner shall approve of such by-laws and find that the requirements of the law have been complied with, he shall issue a license to the company to do business in the state, as is provided for in this chapter.

1899, c. 54, s. 25; 1903, c. 438, ss. 2, 3.

4578. Capital, amount required. The amount of capital requisite to the formation and organization of companies under the provisions of this subchapter, shall be as follows: Companies to insure plate-glass, not less than ten thousand dollars. Companies issuing health

policies, policies against damage by hail or insuring marine risks or inland risks upon the stock plan, not less than twenty-five thousand dollars. Companies for the purpose of transacting life or fire insurance on the stock plan, fidelity insurance, accident insurance, steam-boiler insurance, or for the transaction of the business authorized under the seventh, eighth and ninth paragraphs of section forty-five hundred and seventy-five, not less than fifty thousand dollars; but life companies on the industrial plan, issuing policies not over five hundred dollars, may be allowed to transact business with as little capital as twenty-five thousand dollars. Companies may be so formed to insure mechanics' tools and apparatus against loss by fire for an amount not exceeding two hundred and fifty dollars in a single risk, with a capital of not less than ten thousand dollars, divided into shares of the par value of ten dollars each.

1899, c. 54, s. 26; 1903, c. 438, s. 4.

4579. Shares, when and how paid for; no policies to issue until whole capital paid in. The capital stock shall be paid in cash within twelve months from the date of the charter or certificate of organization, and no certificate of full shares and no policies shall be issued until the whole capital is paid in. A majority of the directors shall certify on oath that the money has been paid by the stockholders for their respective shares and the same is held as the capital of the company invested or to be invested as required by the next succeeding section.

1899, c. 54, s. 27.

4580. Capital, how invested. Such capital shall be invested only as follows:

1. In first mortgage of real estate in this state.
2. In bonds of the United States or of any of the states whose bonds do not sell for less than par.
3. In the bonds or notes of any city, county or town of this state whose net indebtedness does not exceed five per centum of the last preceding valuation of the property therein for purposes of taxation. The term "net indebtedness" excludes any debt created to provide a supply of water for general domestic use, and allows credit for the sinking fund of a county, city, town or district available for the payment of its indebtedness.

1899, c. 54, s. 27.

4581. Increase or reduction of capital stock by domestic companies to be examined; unsecured obligations of stockholders not assets. The insurance commissioner shall, upon application, examine the proceedings of domestic companies to increase or reduce their capital stock, and when found conformable to law shall issue

certificates of authority to such companies to transact business upon such increased or reduced capital. He shall not allow stockholders' obligations of any description as part of the assets or capital of any stock insurance company which may hereafter be organized, unless the same are secured by competent collateral.

1899, c. 54, s. 15.

4582. Assessment of shares; revocation of license if capital impaired. When the net assets of a company organized under this subchapter do not amount to more than three-fourths of its original capital, it may make good its capital to the original amount by assessment of its stock. Shares on which such an assessment is not paid within sixty days after demand shall be forfeitable and may be cancelled by vote of the directors and new shares issued to make up the deficiency. If such company shall not, within three months after notice from the insurance commissioner to that effect, make good its capital, or reduce the same, as allowed by this chapter, its authority to transact new business of insurance shall be revoked by the commissioner.

1899, c. 54, s. 28; 1903, c. 438, s. 4.

4583. Increase of capital. Any company organized under this subchapter may issue pro rata to its stockholders certificates of any portion of its actual net surplus it may deem fit to divide, which shall be deemed to be an increase of its capital to the amount of such certificates. And such company may, at a meeting called for the purpose, vote to increase the amount and number of shares of its capital stock, and to issue certificates therefor when paid in full. In whichever mode the increase is made, the company shall, within thirty days after the issue of such certificates, submit to the insurance commissioner a certificate setting forth the amount of the increase and the facts of the transaction, signed and sworn to by its president and secretary and a majority of its directors. If the insurance commissioner finds that the facts conform to the law he shall endorse his approval thereof; and upon filing such certificate so endorsed with the secretary of state, and the payment of a fee of five dollars for filing the same, the company may transact business upon the capital as increased, and the insurance commissioner shall issue his certificate to that effect.

1899, c. 54, s. 29.

4584. Reduction of capital. When the capital stock of a company organized under this subchapter is impaired, such company may, upon a vote of the majority of the stock represented at a meeting legally called for that purpose, reduce its capital stock and the number of shares thereof to an amount not less than the minimum sum required by law. But no part of its assets and property shall be

distributed to its stockholders. Within ten days after such meeting the company shall submit to the insurance commissioner a certificate setting forth the proceedings thereof and the amount of such reduction and the assets and liabilities of the company, signed and sworn to by its president, secretary and a majority of its directors. The insurance commissioner shall examine the facts in the case, and if the same conform to law, and in his judgment the proposed reduction may be made without prejudice to the public, he shall endorse his approval upon the certificate. Upon filing the certificate so endorsed with the secretary of state and paying a fee of five dollars for the filing thereof, the company may transact business upon the basis of such reduced capital as though the same were its original capital, and its charter shall be deemed to be amended to conform thereto, and the insurance commissioner shall issue his certificate to that effect. Such company may, by a majority vote of its directors, after such reduction, require the return of the original certificates of stock held by each stockholder in exchange for new certificates it may issue in lieu thereof for such number of shares as each stockholder is entitled to in the proportion that the reduced capital bears to the original capital.

1899, c. 54, s. 30.

4585. Dividends, when forbidden; liability of stockholders for unlawful dividends. No stock company organized under this subchapter shall make a dividend, either in cash or stock certificate, except from its actual net surplus computed as required by law in its annual statements, nor shall any such company which has ceased to do new business of insurance divide any portion of its assets, except surplus, to its stockholders, until it shall have performed or cancelled its policy obligations. No dividend shall be made by any company incorporated in this state when its capital stock is impaired, or when the making of such dividend would have the effect of impairing its capital stock; and any dividend as made shall subject the stockholders receiving the same to a joint and several liability to the creditors of said company to the extent of the dividend so made.

1899, c. 54, s. 31; 1903, c. 536, s. 3.

4586. Loans upon insufficient security; commissioner's powers. Whenever it shall appear by examination, as authorized by law, that any insurance company, organized under the laws of this state, holds, as collateral security for the payment of any loan, any stock, bond or security of whatever description, which has not a cash market value of at least twenty-five per centum more than the amount of such loan, the insurance commissioner shall have authority to require the reduction of such loan or an increase of collateral security, so that the security shall be at least twenty-five per centum in excess

of the amount loaned; and if such company fail to comply with such requirement within ten days after receiving written notice thereof from the commissioner, it shall be the duty of the commissioner to disallow such loan and to deduct the amount thereof from the assets of such company; and if it shall appear, upon examination, that any such insurance company holds, as security for any loan, any mortgage upon real estate which is not a first lien, or that the value of such real estate is less than fifty per centum in excess of the loan which it is mortgaged to secure, the insurance commissioner shall have authority to disallow any such loan and deduct the amount thereof from the assets of the company holding the same, after having given the company at least twenty days' notice, in writing, to change or conform any such loan to the requirements of this section.

1903, c. 536, ss. 6, 7, 8.

4587. Mutual fire insurance companies; prerequisites to doing business; perjury; advance assessment to be kept in treasury; certain officers debarred from commissions on premiums, etc. Mutual fire insurance companies may be formed under this subchapter, but no policy shall be issued by a purely mutual fire insurance company hereafter organized, nor by a mutual fire insurance company with a guaranty capital of less than fifty thousand dollars, until not less than two hundred thousand dollars of insurance, in not less than two hundred separate risks upon property located in North Carolina, has been subscribed for and entered on its books; but in the formation of mutual fire insurance companies to operate in no more than two counties of this state, whether town or farmers mutuals, the requirement as to amount of insurance shall be twenty-five thousand dollars in risks owned by not less than twenty-five adult residents of such towns or counties. No policy shall be issued under this section until the president and the secretary of the company shall have certified under oath that each and every subscription for insurance in the list presented to the insurance commissioner for approval is genuine, and made with an agreement with each and every subscriber for insurance that he will take the policies subscribed for by him within thirty days after the granting of a license to the company by the insurance commissioner to issue policies. Every mutual or assessment company or association organized or doing business in the state on the assessment plan shall keep in its treasury at least one assessment sufficient to pay one average loss. No officer or other person whose duty it is to determine the character of the risk, and upon whose decision the application shall be accepted or rejected by a mutual fire insurance company, shall receive as any part of his compensation a commission upon the premiums, but his compensation shall be a fixed salary and such share in the net profits

as the directors may determine. Nor shall such officer or person be an employee of any officer or agent of the company.

1899, c. 54, ss. 25, 34, 32; 1901, c. 391, s. 3; 1903, c. 438, s. 4.

Note. False oath to certificate is perjury, see Crimes.

4588. Mutual fire companies, policyholders are members of; rights and liabilities of members; directors in. Every person insured by a mutual fire insurance company shall be a member while his policy is in force, entitled to one vote for each policy he holds, and shall be notified of the time and place of holding its meetings by a written notice or by an imprint upon the back of each policy, receipt or certificate of renewal, as follows, to-wit:

The assured is hereby notified that by virtue of this policy he is a member of the insurance company, and that the annual meetings of said company are held at its home office on the day of, in each year, at o'clock.

The blanks shall be duly filled in print and the same shall be deemed a sufficient notice. A corporation which becomes a member of such company may authorize any person to represent it in such company, and such representative shall have all the rights of an individual member. Any person holding property in trust may insure the same in such company, and as such trustee assume the liability and be entitled to the rights of a member, but shall not be personally liable upon such contract of insurance. Members may vote by proxies, dated and executed within three months, and returned and recorded on the books of the company three days or more before the meeting at which they are to be used; but no person shall be allowed as proxy or otherwise to cast more than twenty votes. Every such company shall elect by ballot a board of not less than seven directors, who shall manage and conduct its business and who shall hold office for one year or for such terms as the by-laws may provide and until their successors are qualified. Two-thirds at least of the directors shall be citizens of the state, and after the first election members only shall be eligible, but no director shall be disqualified from serving the term he was chosen for by reason of the expiration or cancellation of his policy. In companies with a guaranty capital, one-half of the directors shall be chosen by and from the stockholders.

1899, c. 54, s. 33.

4589. Mutual fire companies with a guaranty capital. A mutual fire insurance company formed as provided in this subchapter, or a mutual fire insurance company now existing, may establish a guaranty capital of not less than twenty-five thousand dollars nor more than two hundred thousand dollars, divided into shares of one hundred dollars each, which shall be invested in the same manner as is

provided in this subchapter for the investment of the capital stock of certain insurance companies. The stockholders of the guaranty capital of a company shall be entitled to a semi-annual dividend of not more than three and one-half per centum on their respective shares, if the net profits or unused premiums left after all expenses, losses and liabilities then incurred, together with the reserve for reinsurance, as provided for, shall be sufficient to pay the same. The guaranty capital shall be applied to the payment of losses only when the company has exhausted its cash in hand, and the invested assets, exclusive of uncollected premiums, and when thus impaired, the directors may make good the whole or any part of it by assessments upon the contingent funds of the company at the date of such impairment. Shareholders and members of such companies shall be subject to the same provisions of law in respect to their right to vote as apply respectively to shareholders in stock companies and policyholders in purely mutual companies. Such guaranty capital shall be retired when the permanent fund of the company equals two per centum of the amount insured upon all policies in force; and such guaranty capital may be reduced or retired by vote of the policyholders of the company and the assent of the insurance commissioner, if the net assets of the company above its reinsurance reserve and all other claims and obligations, exclusive of guaranty capital, for two years immediately preceding and including the date of its last annual statement, shall not be less than twenty-five per centum of the guaranty capital. Due notice of such proposed action on the part of the company shall be mailed to each policyholder of the company not less than thirty days before the meeting when such action may be taken, and shall also be advertised in two papers of general circulation, approved by the insurance commissioner, not less than three times a week for a period of not less than four weeks before such meeting. No insurance company with a guaranty capital, which has ceased to do new business, shall divide to its stockholders any part of its assets or guaranty capital, except income from investments, until it shall have performed or cancelled its policy obligations.

1899, c. 54, s. 34.

4590. Mutual fire companies; dividends; assessments; liability of policyholders. The directors of any mutual fire insurance company may from time to time by vote fix and determine the amount to be paid as a dividend upon policies expiring during each year. Each policyholder shall be liable to pay his proportional share of any assessments which may be laid by the company in accordance with law and his contract on account of losses incurred while he was a member, if he is notified of such assessments within one year after the expiration of his policy. Any mutual fire insur-

ance company doing business with a fixed annual premium may in its by-laws and policies fix the contingent liability of its members for the payment of losses and expenses not provided for by its cash funds; but such contingent liability of a member shall not be less than a sum equal to five times the cash premiums written in his policy and in addition thereto. The total amount of the liability of the policyholder shall be plainly and legibly stated upon the back of each policy. Whenever any reduction is made in the contingent liability of members, such reduction shall apply proportionally to all policies in force.

1899, c. 54, s. 35.

Note. Officer guaranteeing policyholder against assessment guilty of crime, see Crimes.

4591. Mutual fire companies; assessment of policyholders, how and when made; rights and liabilities of policyholders adjusted.

Whenever a mutual fire insurance company is not possessed of cash funds above its reinsurance reserve sufficient for the payment of insured losses and expenses, it shall make an assessment for the amount needed to pay such losses and expenses upon its members liable to assessment therefor in proportion to their several liabilities. The company shall cause to be recorded in a book kept for that purpose the order for such assessment, together with a statement which shall set forth the condition of the company at the date of the order, the amount of its cash assets and of its deposit, notes or other contingent funds liable to the assessment, the amount the assessment calls for and the particular losses or liabilities it is made to provide for. Such record shall be made and signed by the directors who voted for the order before any part of the assessment is collected, and any person liable to the assessment may inspect and take a copy of the same. When, by reason of depreciation or loss of its funds or otherwise, the cash assets of such company, after providing for its other debts, are less than the required premium reserve upon its policies, it shall make good the deficiency by assessment in the mode above provided; and if the directors are of the opinion that the company is liable to become insolvent they may, instead of such assessment, make two assessments, the first determining what each policyholder must equitably pay or receive in case of withdrawal from the company and having his policy cancelled; the second, what further sum each must pay in order to reinsure the unexpired term of his policy at the same rate as the whole was insured at first. Each policyholder shall pay or receive according to the first assessment, and his policy shall be cancelled unless he pays the sum further determined by the second assessment, in which case his policy shall continue in force; but in neither case shall a policyholder receive or

have credited to him more than he would have received on having his policy cancelled by a vote of the directors under the by-laws.

1899, c. 54, ss. 36, 37.

4592. Mutual life and health companies. Life and health insurance companies and associations organized in this state to do, or doing business, on the mutual plan shall be governed as to the commencement of business, election of members, guaranty capital, dividends and assessments as provided in the five next preceding sections, where applicable.

1903, c. 536, s. 1.

4593. Dividends on, and redemption of, guaranty capital of life companies. The stockholders of the guaranty capital of any domestic life insurance company shall be entitled to such annual dividends not exceeding eight per centum, payable from the net surplus, as may have been agreed upon in the subscription thereof. And any such company may redeem its guaranty capital by appropriation of net surplus for that purpose whenever its members so vote.

1899, c. 54, s. 58; 1903, c. 438, s. 5.

4594. Real estate title insurance companies, how formed; this chapter, how far applicable to. Companies may be formed in the manner provided in this subchapter with a capital of not less than fifty thousand dollars nor more than two hundred and fifty thousand dollars for the purpose of examining titles to real estate, of furnishing information in relation thereto, and of insuring owners and others interested therein against loss by reason of incumbrances and defective title. Such companies shall not be subject to the provisions of this chapter except as regards the manner of their formation, and as follows, to-wit: Any such corporation, before it shall issue any policy or make any contract or guarantee of insurance, shall file with the insurance commissioner a certified copy of the record or the certificate of its organization in the office of the secretary of state, and shall obtain from the insurance commissioner his certificate that it has complied with the laws applicable to it and is authorized to do business. Every such corporation shall, on or before the thirtieth day of January of each year, file in the office of the insurance commissioner a statement such as he may require of its condition and of its affairs for the year ending on the preceding thirty-first day of December, signed and sworn to by its president or secretary or treasurer and one of its directors, and for neglect to file such annual statements or for making a wilfully false statement shall be liable to the same penalties as are imposed upon other insurance companies. The insurance commissioner shall annually license such companies and their agents, and shall have the same power and authority to visit

and examine such corporations as he has in the case of other domestic insurance companies, and the duties and liabilities of such corporations and their agents in reference to such examinations shall be the same as those of other domestic insurance companies.

1899, c. 54, s. 38; 1901, c. 391, s. 3.

VII. FOREIGN COMPANIES.

4595. How admitted; laws applicable to. Foreign insurance companies, upon complying with the conditions herein set forth applicable to such companies, may be admitted to transact in this state, by constituted agents resident herein, any class of insurance authorized by the laws now or hereafter in force relative to the duties, obligations, prohibitions and penalties of insurance companies, and subject to all laws applicable to the transaction of such business by foreign insurance companies and their agents.

1899, c. 54, s. 61.

4596. Conditions of admission. No foreign insurance company shall be admitted and authorized to do business until—

1. It shall deposit with the insurance commissioner a certified copy of its charter or certificate of organization and a statement of its financial condition and business, in such form and detail as he may require, signed and sworn to by its president and secretary or other proper officer, and shall pay for the filing of such statement the sum required by law.

2. It shall satisfy the insurance commissioner that it is fully and legally organized under the laws of its state or government to do the business it proposes to transact; that it has, if a stock company, a fully paid-up and unimpaired capital, exclusive of stockholders' obligations of any description, of an amount not less than one hundred thousand dollars; but nothing in this subsection shall apply to companies now authorized to do business in this state; and if a mutual company, other than life, that its net cash assets are equal to the capital required of like companies on the stock plan; or that it possesses net cash assets of not less than one hundred thousand dollars or net cash assets of not less than fifty thousand dollars, with also invested assets of not less than one hundred thousand dollars, and, in each case, with additional contingent assets of not less than three hundred thousand dollars, and that such capital or net assets are well invested and immediately available for the payment of losses in this state; and that it insures on any single hazard a sum no larger than one-tenth of its net assets.

3. It shall by a duly executed instrument filed in his office constitute and appoint the insurance commissioner and his successor its true and lawful attorney, upon whom all lawful processes in any

action or legal proceeding against it may be served, and therein shall agree that any lawful process against it which may be served upon such attorney shall be of the same force and validity as if served on the company, and that it will not have removed from any court of this state to the United States circuit or district court any action instituted against it, and that it will not institute any action or suit in equity in the United States courts against any citizen of this state growing out of, or in any way connected with, any policy of insurance issued by it, and the authority thereof shall continue in force irrevocable so long as any liability of the company remains outstanding in this state. Copies of such instrument, certified by the insurance commissioner, shall be deemed sufficient evidence thereof, and service upon such attorney shall be deemed sufficient service upon the principal.

4. It shall appoint as its agent or agents in this state some resident or residents thereof.

5. It shall obtain from the insurance commissioner a certificate that it has complied with the laws of the state and is authorized to make contracts of insurance. If a fire insurance company, it must also comply with the provisions of this chapter as to deposits and reinsurance by such companies.

1899, c. 54, s. 62; 1901, c. 391, s. 5; 1903, c. 438, s. 6.

4597. Limited to one class of business, when. No insurance company admitted to do business in the state shall be authorized to transact more than one class or kind of insurance therein unless it has the requisite capital for each business engaged in, and shall have paid the license taxes and fees for each class or kind of insurance, as by this chapter provided.

1899, c. 54, s. 65; 1901, c. 391, s. 5; 1903, c. 438, s. 6.

4598. Reciprocal laws. When, by the laws of any other state or nation, any taxes, fines, penalties, licenses, fees, deposits of money or of securities, or other obligations or prohibitions are imposed upon insurance companies of this state doing business in such other state or nation or upon their agents therein, then, so long as such laws continue in force, the same taxes, fines, penalties, licenses, fees, deposits, obligations and prohibitions, of whatsoever kind, shall be imposed upon all such insurance companies of such other state or nation doing business within this state and upon their agents here. Nothing herein shall be held to repeal or reduce the license, fees, taxes, and other obligations now imposed by the laws of this state or to go into effect with the companies of any other state or nation unless some company of this state is actually doing or seeking to do business in such state or nation. When an insurance company organized under the laws of any state or country is prohibited by the

laws of such state or country or by its charter from investing its assets other than capital stock in the bonds of this state, then and in such case the insurance commissioner is authorized and directed to refuse to grant a license to transact business in this state to such insurance company.

1903, c. 536, s. 11; 1899, c. 54, s. 71.

4599. Service of legal process, how made on the commissioner, as agent, etc.; two dollars to be paid by plaintiff. The service of legal process upon any foreign insurance company, admitted and authorized to do business in this state under the provisions of this chapter, shall be made by leaving the same in the hands or office of the insurance commissioner; and no service upon any company that is licensed to do business in this state shall be valid unless made upon the insurance commissioner, the general agent for service, or some officer of the company; and as a condition precedent to a valid and effectual service of process and of the duty of the commissioner in the premises, the plaintiff in such process shall pay to the insurance commissioner at the time of service thereof the sum of two dollars, which the plaintiff shall recover as taxable costs if he prevails in his action.

1899, c. 54, ss. 62, 16; 1903, c. 438, s. 6.

4600. Duty of commissioner when served with process as agent of a foreign company. When legal process is served upon the insurance commissioner as attorney for a foreign company, under the provisions of this chapter, he shall forthwith notify the company of such service by letter prepaid and directed to its secretary, or in the case of a foreign country, to its resident manager, if any, in the United States; and shall within two days after such service forward in the same manner a copy of the process served on him to such secretary or manager, or to such other person as may have been previously designated by the company by written notice filed in the office of the commissioner. The commissioner shall keep a record of all such proceedings, which record shall show the day and hour of service of the process on the commissioner.

1899, c. 54, s. 16.

4601. Compliance with this chapter enforced by action of state ex rel. commissioner. Compliance with the provision of this chapter as to deposits, obligations and prohibitions, and the payment of taxes, fines, fees and penalties by foreign insurance companies may be enforced in the ordinary course of legal procedure by action brought in the superior court of Wake county by the attorney general in the name of the state upon the relation of the insurance commissioner.

1899, c. 54, s. 102; 1903, c. 438, s. 10.

4602. Allowed to withdraw documents filed under the act of one thousand eight hundred and ninety-nine. The secretary of state is hereby authorized to return, upon request, to the insurance companies who deposited them, all copies of charters and by-laws deposited with the secretary of state by insurance companies in obedience to chapter sixty-two of the public laws of one thousand eight hundred and ninety-nine, and all insurance companies are hereby relieved and absolved from all duties and liabilities incurred by reason of having deposited such copies of charters and by-laws; but no insurance company shall receive the benefit of this section, nor have its charter and by-laws returned, unless it shall have in all respects complied with chapter fifty-four of the public laws of one thousand eight hundred and ninety-nine, and all acts amendatory thereof.

1901, c. 577.

VIII. FIRE INSURANCE.

4603. Risks incident to fire protection may be carried by fire insurance companies. All insurance companies authorized to transact fire insurance business in this state may, in addition to the business which they are now authorized by law to do, insure sprinklers, pumps and other apparatus erected or put in position for the purpose of extinguishing fires, against damage, loss or injury resulting from accidental causes other than fire; and also insure any property which such companies are authorized to insure against loss or damage by fire, against damage, loss or injury by water or otherwise, resulting from the accidental breaking of or injury to such sprinklers, pumps or other apparatus, arising from causes other than fire. Contracts of insurance of this kind, provided for in this paragraph, shall not be incorporated in any contract of insurance against loss or damage by fire, but shall be contained in separate and distinct policies, the conditions of which shall be prescribed by the insurance commissioner.

1899, c. 54, s. 24.

4604. Policies limited as to amount and term. No insurance company shall knowingly issue any fire insurance policy upon property within this state for an amount which, together with any existing insurance thereon, exceeds the fair value of the property, nor for a longer term than seven years. Policies issued in violation of this section shall be binding upon the company issuing them, although such company shall, nevertheless, be liable for the forfeitures by law prescribed for such violation.

1899, c. 54, ss. 39, 99; 1903, c. 438, s. 10.

Note. Violation of this section subjects offender to a forfeiture. see sec. 4669.

4605. Limit of liability on total loss. When buildings insured against loss by fire and situated within the state are totally destroyed by fire, the company shall not be liable beyond the actual cash value of the insured property at the time of the loss or damage; and if it shall appear that the insured has paid premium on a sum in excess of such actual value, the assured shall be reimbursed the proportionate excess of premium paid on the difference between the amount named in the policy and the ascertained values, with interest at six per centum per annum from the date of issue.

1899, c. 54, s. 40.

4606. Mortgagor and mortgagee, policy for. Where by an agreement with the assured, or by the terms of a fire insurance policy taken out by a mortgagor, the whole or any part of the loss thereon is payable to a mortgagee of the property for his benefit, the company shall, upon satisfactory proof of the rights and title of the parties, in accordance with such terms or agreement, pay all mortgages protected by such policy in the order of their priority of claim, as their claims shall appear, not beyond the amount for which the company is liable, and such payments shall be to the extent thereof, payment and satisfaction of the liabilities of the company under such policy.

1899, c. 54, s. 41.

4607. All terms and conditions must be fully set out in policy. In all insurance against loss by fire the conditions of insurance shall be stated in full, and the rules and by-laws of the company shall not be considered as a warranty or a part of the contract, except so far as they are incorporated in full into the policy.

1899, c. 54, s. 42.

4608. Standard policy adopted. No fire insurance company shall issue fire insurance policies on property in this state other than those of the standard form filed in the office of the insurance commissioner of the state, known and designated as the standard fire insurance policy of the state of North Carolina, except as follows: (a) A company may print on or in its policies its name, location and date of incorporation, the amount of its paid-up capital stock, the names of its officers and agents, the number and date of the policy, and if it be issued through an agent, the words: "This policy shall not be valid until countersigned by the duly authorized manager or agent of the company at," and after the words "Standard Fire Insurance Policy of the State of North Carolina," on the back of the form, the names of such other states, as have adopted this standard form. (b) A company may use in its policies written or printed forms of description and specification of the property in-

sured. (c) A company insuring against damage by lightning may print in the clause enumerating the perils insured against, the additional words, "also any damage by lightning, whether fire ensues or not," and in the clause providing for an apportionment of loss in case of other insurance, the words, "whether by fire, lightning, or both." (d) A company may write or print upon the margin or across the face of a policy, or write or print in type not smaller than long primer or ten-point roman-faced, upon separate slips or riders to be attached thereto, provisions adding to or modifying those contained in the standard form, and all such slips, riders, and provisions must be signed by the officers or agents of the company so using them. (e) Every mutual company shall cause to appear in the body of its policy the total amount for which the assured may be liable under the charter of the company.

1899, c. 54, s. 43; 1901, c. 391, s. 4.

4609. Form of standard policy. The standard form of policy shall be plainly printed, and no portion thereof shall be in type smaller than the type used in printing the form on file in the office of the insurance commissioner, and shall be as follows, to-wit:

No. \$
(Corporate name of the company or association; its principal place or places of business.)

In consideration of the stipulations herein named, and of dollars premiums, does insure for the term of from the day of, 1, at noon, to the day of, 1, at noon, against all direct loss or damage by fire, except as hereinafter provided, to an amount not exceeding dollars, to the following described property while located and contained as described herein, and not elsewhere, to-wit: (Here must be inserted a description of the property insured.)

This company shall not be liable beyond the actual cash value of the property at the time any loss or damage occurs, and the loss or damage shall be ascertained or estimated according to such actual cash value, with proper deduction for depreciation, however caused, and shall in no event exceed what it would then cost the insured to repair or replace the same with material of like kind and quality; said ascertainment or estimate shall be made by the insured and this company, or, if they differ, then by appraisers, as hereinafter provided; and the amount of loss or damage having been thus determined, the sum for which this company is liable, pursuant to this policy, shall be payable sixty days after due notice, ascertainment, estimate, and satisfactory proof of the loss has been received by this company in accordance with the terms of this policy. It shall be optional, however, with this company to take all or any part of the articles at such ascertained or appraised value, and also to repair, rebuild or replace the property lost or damaged, with other of like kind and quality within a reasonable time on giving notice, within thirty days after the receipt of the proof herein required, of its intention so to do; but there can be no abandonment to this company of the property described. This entire policy shall be void if the insured has concealed or misrepresented, in writing or otherwise, any material fact or circumstance concerning this insurance or the subject thereof; or if the interest of the insured in the property be not truly stated herein; or in case of any fraud or false swearing by the insured touching any matter relating to this insurance or the subject thereof, whether before or after a loss. This entire policy, unless otherwise provided by agreement endorsed hereon or added hereto, shall be void if the insured now has or shall hereafter make or procure any other contract of

insurance, whether valid or not, on property covered in whole or in part by this policy; or if the subject of insurance be a manufacturing establishment and it be operated in whole or in part at night later than ten o'clock, or if it cease to be operated for more than ten consecutive days, or if the hazard be increased by any means within the control or knowledge of the insured; or if mechanics be employed in building, altering or repairing the within described premises for more than fifteen days at any one time; or if the interest of the insured be other than unconditional and sole ownership; or if the subject of insurance be a building on ground not owned by the insured in fee-simple; or if the subject of insurance be personal property, and be or become encumbered by a chattel mortgage; or if, with the knowledge of the insured, foreclosure proceedings be commenced or notice given of sale of any property covered by this policy by virtue of any mortgage or trust deed, or if any change, other than by the death of an insured, take place in the interest, title or possession of the subject of insurance (except change of occupants without increase of hazard), whether by legal process or judgment or by voluntary act of the insured or otherwise; or if this policy be assigned before a loss; or if illuminating gas or vapor be generated in the described building (or adjacent thereto) for use therein; or if (any usage or custom of trade or manufacture to the contrary notwithstanding) there be kept, used or allowed on the above-described premises, benzine, benzole, dynamite, ether, fireworks, gasoline, greek fire, gunpowder exceeding twenty-five pounds in quantity, naphtha, nitro-glycerine or other explosives, phosphorus or petroleum, or any of its products of greater inflammability than kerosene oil of the United States standard (which last may be used for lights and kept for sale according to law, but in quantities not exceeding five barrels, provided it be drawn and lamps filled by daylight or at a distance not less than ten feet from artificial light); or if a building herein described, whether intended for occupancy by owner or tenant, be or become vacant or unoccupied and so remain for ten days. This company shall not be liable for loss caused directly or indirectly by invasion, insurrection, riot, civil war or commotion, or military or usurped power, or by order of any civil authority; or by theft; or by neglect of the insured to use all reasonable means to save and preserve the property at and after a fire or when the property is endangered by fire in neighboring premises, or (unless fire ensues, and in that event, for the damage by fire only) by explosion of any kind or lightning; but liability for direct damage by lightning may be assumed by specific agreement hereon. If a building or any part thereof fall, except as the result of fire, all insurance by this policy on such building or its contents shall immediately cease. This company shall not be liable for loss to accounts, bills, currency, deeds, evidences of debt, money, notes or securities, nor unless liability is specifically assumed hereon, for loss to awnings, bullion, casts, curiosities, drawings, dies, implements, jewels, manuscripts, medals, models, patterns, pictures, scientific apparatus, signs, store or office furniture or fixtures, sculpture, tools, or property held on storage or for repairs, nor beyond the actual value destroyed by fire, for loss occasioned by ordinance or law regulating construction or repair of buildings, or by interruption of business, manufacturing processes, or otherwise, nor for any greater proportion of the value of plate glass, frescoes and decorations than that which this policy shall bear to the whole insurance on the building described. If an application, survey, plan or description of property be referred to in this policy it shall be a part of this contract and a warranty by the insured. In any matter relating to this insurance no person, unless duly authorized in writing, shall be deemed the agent of this company. This policy may, by a renewal, be continued under the original stipulations, in consideration of premium for the renewed term: Provided, that any increase of hazard must be made known to this company at the time of renewal, or this policy shall be void. This policy shall be cancelled at any time at the request of the insured, or by the company by giving five days' notice of such cancellation. If this policy shall be cancelled as hereinbefore provided, or become void or cease, the premium having been actually paid, the unearned portion shall be returned on surrender of this policy or last renewal, this company retaining the customary short rate, except that when this policy is cancelled by this company by giving notice, it shall retain only the pro rata premium. If, with the consent of this company, an interest under this policy shall exist in favor of a mortgagee, or of any person or corporation having an interest

in the subject of insurance other than the interest of the insured as described herein, the conditions hereinbefore contained shall apply in the manner expressed in such provisions and conditions of insurance relating to such interest as shall be written upon, attached or appended hereto. If property covered by this policy is so endangered by fire as to require removal to a place of safety, and is so removed, that part of this policy in excess of its proportion of any loss and of the value of property remaining in the original location, shall, for the ensuing five days only, cover the property so removed in the new location; if removed to more than one location, such excess of this policy shall cover therein for such five days in the proportion that the value in any one such new location bears to the value in all such new locations; but this company shall not, in any case of removal, whether to one or more locations, be liable beyond the proportion that the amount hereby insured shall bear to the total insurance on the whole property at the time of fire, whether the same cover in new location or not. If fire occur, the insured shall give immediate notice of any loss thereby in writing to this company, protect the property from further damage, forthwith separate the damaged and undamaged personal property, put it in the best possible order, make a complete inventory of the same, stating the quantity and cost of each article and the amount claimed thereon; and within sixty days after the fire, unless such time is extended in writing by this company, shall render a statement to this company, signed and sworn to by said insured, stating the knowledge and belief of the insured as to the time and origin of the fire; the interest of the insured, and of all others in the property; the cash value of each item thereof, and the amount of loss thereon; all incumbrances thereon; all other insurance, whether valid or not, covering any of said property; and a copy of all the descriptions and schedules in all policies; any changes in the title, use, occupation, location, possession or exposures of said property since the issuing of this policy, by whom and for what purpose any building herein described, and the several parts thereof, were occupied at the time of fire, and shall furnish, if required, verified plans and specifications of any building, fixtures or machinery destroyed or damaged; and shall also, if required, furnish a certificate of the magistrate or notary public (not interested in the claim as a creditor or otherwise, nor related to the insured) living nearest the place of fire, stating that he has examined the circumstances and believes the insured has honestly sustained loss to the amount that such magistrate or notary public shall certify. The insured, as often as required, shall exhibit to any person designated by this company all that remains of any property herein described, and submit to examination, under oath by any person named by this company, and subscribe the same, and, as often as required, shall produce for examinations all books of account, bills, invoices and other vouchers, or certified copies thereof if originals be lost, at such reasonable place as may be designated by this company or its representative, and shall permit extracts and copies thereof to be made. In the event of disagreement as to the amount of loss, the same shall, as above provided, be ascertained by two competent and disinterested appraisers, the insured and this company each selecting one, and the two so chosen shall first select a competent and disinterested umpire; the appraisers together shall then estimate and appraise the loss, stating separately sound value and damage, and, failing to agree, shall submit their differences to the umpire, and the award in writing of any two shall determine the amount of such loss; the parties thereto shall pay the appraiser respectively selected by them, and shall bear equally the expenses of the appraisal and umpire. This company shall not be held to have waived any provision or condition of this policy or any forfeiture thereof by any requirement, act or proceeding on its part relating to the appraisal or to any examination herein provided for, and the loss shall not become payable until sixty days after the notice, ascertainment, estimate, and satisfactory proof of the loss herein required have been received by this company, including an award by appraisers when appraisal has been required. This company shall not be liable under this policy for a greater proportion of any loss on the described property or for loss by and expense of removal from premises endangered by fire than the amount hereby insured shall bear to the whole insurance, whether valid or not, or by solvent or insolvent insurers, covering such property, and the extent of the application of the insurance under this policy or of the contribution to be made by this company in case of loss may be provided

for by agreement or condition written hereon or attached or appended hereto. Liability for re-insurance shall be as specifically agreed hereon. If this company shall claim that the fire was caused by the act or neglect of any person or corporation, private or municipal, this company shall, on payment of the loss, be subrogated to the extent of such payment to all right of recovery by the insured for the loss resulting therefrom, and such right shall be assigned to this company by the insured on receiving such payment. No suit or action on this policy, for the recovery of any claim, shall be sustainable in any court of law or equity until after full compliance by the insured with all the foregoing requirements, nor unless commenced within twelve months next after the fire. Wherever in this policy the word "insured" occurs, it shall be held to include the legal representative of the insured, and wherever the word "loss" occurs it shall be deemed the equivalent of "loss" or "damage." If this policy be made by a mutual or other company having special regulations lawfully applicable to its organization, membership, policies or contracts of insurance, such regulations shall apply to and form a part of this policy as the same may be written or printed upon, attached or appended hereto. This policy is made and accepted subject to the foregoing stipulations and conditions, together with such other provisions, agreements or conditions as may be endorsed hereon or added hereto, and no officer, agent or other representative of this company shall have power to waive any provision or condition of this policy except such as by the terms of this policy may be the subject of agreement endorsed hereon or added hereto, and as to such provisions and conditions no officer, agent or representative shall have such power or be deemed or held to have waived such provisions or conditions, unless such waiver, if any, shall be written upon or attached hereto, nor shall any privilege or permission affecting the insurance under this policy exist or be claimed by the insured unless so written or attached.

In witness whereof, this company has executed and attested these presents, this
 day of [A. D.] 1...

....., Secretary.

....., President.

1899, c. 54, s. 43; 1901, c. 391, s. 4.

4610. Size and folding of policy; appraisers may act separately, when. No provisions of this chapter shall limit insurance companies to the use of any particular size or manner of folding the paper upon which their policies may be issued. And the word "together" in line one hundred and forty-six of the next preceding section shall not forbid the making of estimates by either of the appraisers when not in the presence of the other, but only to require that they shall come together for a final estimate and appraisal of the loss or damage.

1899, c. 54, s. 43.

Note. Issuing policy other than standard subjects company and agent to forfeiture, see s. 4670.

4611. Penalty for issuing policy not of standard form. Any insurance company which shall cause to be issued, and any agent who shall make, issue, or deliver a policy of fire insurance other than the standard form of fire insurance policy, in wilful violation of this chapter, shall be punished as by law provided; but such policy shall nevertheless be binding upon the company issuing the same.

1899, c. 54, s. 44.

Note. See s. 4670.

4612. No action lies on policy of unlicensed company, when. No action shall be maintained in any court in the state upon any

policy or contract of fire insurance issued upon any property situated in the state by any company, association, partnership, individual or individuals that have not been authorized by the insurance commissioner to transact such insurance business.

1899, c. 54, s. 105.

4613. Resident agents required, when. Foreign fire insurance companies legally authorized to do business in this state through regularly commissioned and licensed agents located in this state, shall not make contracts of fire insurance on property herein, save through such resident agents as are regularly commissioned by them and licensed to write policies of fire insurance in this state. No provision of this section is intended or shall apply to direct insurance covering the rolling stock of railroad corporations or property in transit while in the possession and custody of railroad corporations or other common carriers.

1899, c. 54, s. 107; 1901, c. 391, s. 8.

Note. Violation of this section a misdemeanor, see Crimes.

4614. Nonresident agents; company must not issue policies through. Every fire insurance company authorized to do business in the state is hereby prohibited from authorizing or allowing any person, agent, firm or corporation who is a nonresident of this state, to issue or cause to be issued any policy of insurance on property located in this state.

1903, c. 488, s. 1.

4615. Licensed agents forbidden to pay commissions, etc., to nonresident or unlicensed persons. Any person, agent, firm or corporation licensed by the insurance commissioner to act as a fire insurance agent in this state is hereby prohibited from paying directly or indirectly any commission, brokerage, or other valuable consideration on account of any policy covering property in this state, to any person, agent, firm or corporation who is a nonresident of this state, or to any person, agent, firm or corporation not duly licensed by the insurance commissioner as a fire insurance agent.

1903, c. 488, s. 2.

4616. Penalties for violations by agents; commissioner's duties and powers to enforce two preceding sections. Whenever the insurance commissioner shall have or receive notice or information of any violation of any of the provisions of the two next preceding sections he shall immediately investigate or cause to be investigated such violation, and if a fire insurance company has violated any of such provisions he shall immediately revoke its license for not less than three months nor more than six months for first offense, and for each offense thereafter for not less than one year; and if a

person, agent, firm or corporation licensed by the insurance commissioner as a fire insurance agent shall violate or cause to be violated any of the provisions of those sections, he shall for the first offense have his license revoked for all companies for which he has been licensed for not less than three months nor more than six months, and for the second offense he shall have his license revoked for all companies for which he is licensed, and shall not thereafter be licensed for any company for one year from the date of such revocation. And for the purpose of enforcing the provisions of those sections the insurance commissioner is hereby authorized and empowered to examine persons, administer oaths and send for papers and records. Any failure or refusal on the part of any fire insurance company, person, agent, firm or corporation, licensed to do business in this state, to appear before the insurance commissioner when requested to do so, or to produce records and papers, or answer under oath, shall subject such fire insurance company, person, agent, firm or corporation to the penalties of this section.

1903, c. 488, ss. 3, 4.

4617. Citizens of the state may be licensed to procure policies in unlicensed foreign companies; affidavit necessary; accounts to be kept and filed; bond required; tax on receipts; annual statements; special provisions as to mutual companies. The insurance commissioner, upon the annual payment of a fee of twenty dollars, may issue licenses to citizens of this state, subject to revocation at any time, permitting the person named therein to procure policies of fire insurance on property in this state in foreign insurance companies not authorized to transact business in this state. Before the person named in such a license shall procure any insurance in such companies or on any property in this state, he shall in every case execute and file with the insurance commissioner an affidavit that he is unable to procure in companies admitted to do business in the state the amount of insurance necessary to protect such property, and shall only procure insurance under such license after he has procured insurance in companies admitted to do business in this state to the full amount which such companies are willing to write on the property; but such licensed person shall not be required to offer any portion of such insurance to any company which is not possessed of cash assets amounting to at least twenty-five thousand dollars, or one which has, within the preceding twelve months, been in an impaired condition. Each person so licensed shall keep a separate account of the business done under the license, a certified copy of which account he shall forthwith file with the insurance commissioner, showing the exact amount of such insurance placed by any person, firm or corporation, the gross premium charged thereon, the com-

panies in which the same is placed, the date of the policies and the terms thereof, and also a report in the same detail of all such policies cancelled and the gross return premium thereon. Before receiving such license the applicant therefor shall execute and deliver to the insurance commissioner a bond in the penal sum of one thousand dollars, with such sureties as the insurance commissioner shall approve, with a condition that the licensee will faithfully comply with all the requirements of this section, and will file with the insurance commissioner, in January of each year, a sworn statement of the gross premiums charged for insurance procured or placed, and the gross returned premiums on such insurance cancelled under such license during the year ending on the thirty-first day of December next preceding, and at the time of filing such statement will pay into the treasury of the state a sum equal to five per centum of such gross premiums, less return premiums, so reported; or pay such tax at the time of taking out and delivering such policy or policies. Any broker licensed under this section may, upon application to the insurance commissioner, be allowed to place policies of insurance with any mutual fire insurance company not doing or licensed to do business in this state and not paying commissions upon business and not having agents to solicit business and doing only one class of fire insurance business, if he shall file with the insurance department a certified copy of the charter of each such company, a statement of its financial condition on a blank of the department, and certificate of its authority to do business at its home office, and shall also receive from the insurance commissioner a license for each company to do business through him on the payment by him of the license, taxes and fees as required by law. All such contracts of insurance placed through any such broker shall be valid and legal, and the risks upon which such policies are placed may be examined and inspected by regular agents or inspectors licensed by the insurance department upon the application of the broker writing such insurance. Any person licensed under the provisions of this section who shall procure or act in any manner in the procurement or negotiation of insurance in any unauthorized foreign company, and shall neglect to make and file the affidavit and statement as this section requires, shall forfeit his license and be punished as provided by law.

1899, c. 54, ss. 68, 95; 1903, c. 438, s. 7, c. 680.

Note. Violation of this section made a crime, see Crimes.

4618. Reinsurance restricted and regulated. Whenever an application for license, for renewal of license or for admission to this state is made by a company, whether of this state, of another state of the United States or of a foreign country, for the transaction of business of fire insurance herein, such company shall, as one of the

prerequisites of license and admission, file a sworn declaration signed by its president and secretary, or officers corresponding thereto, that it will not reinsure any risk or part thereof taken by it on any property located in this state with any company not authorized to transact the business of fire insurance in this state. Every fire insurance company now or hereafter admitted shall annually and at such other times as the insurance commissioner may require, in addition to all returns now by law required of it or its agents or managers, make a return to the insurance commissioner in such form and detail as may be prescribed by him of all reinsurance contracted for or effected by it directly or indirectly, upon property located in this state, such return to be certified by the oath of its president and secretary, if a company of one of the United States, and if a company of a foreign country, by its president and secretary or by officers corresponding thereto, as to such reinsurance contracted for or effected through the foreign office, and by the United States manager as to such reinsurance effected by the United States branch; and if any company, domestic or foreign, shall, directly or indirectly, reinsure any risk taken by it on any property located in this state in any company not duly authorized to transact business herein, or if it shall refuse or neglect to make the returns required by this section, the insurance commissioner shall revoke its authority to transact business in this state. The provisions of this section shall also apply to companies licensed to do reinsurance business only. It shall be unlawful for any company reinsuring risks on property located in this state to reinsure such risks or parts thereof except in companies authorized by the laws of this state to do such business.

1899, c. 54, s. 63; 1901, c. 391, s. 5.

Note. A violation of this section subjects the offender to a fine by the commissioners, see s. 3457.

IX. LIFE INSURANCE.

4619. Husband may insure his life for benefit of wife and children. The husband may insure his own life for the sole use and benefit of his wife and children, and in case of the death of the husband, the amount thus insured shall be paid over to the wife and children, or to the guardian, if under age, for her, or their own use, free from all the claims of the representatives of her husband, or any of his creditors.

Const., Art. X, s. 7.

4620. Beneficiary takes precedence of creditors, etc., of insured; may sue in his own name; if a married woman, holds to her separate use and that of her children. When a policy of insurance is effected by any person on his own life, or on another life in favor of some person other than himself having an insurable interest

therein, the lawful beneficiary thereof, other than himself or his legal representatives, shall be entitled to its proceeds against the creditors and representatives of the person effecting the same. The person to whom a policy of life insurance is made payable may maintain an action thereon in his own name. Every policy of life insurance made payable to or for the benefit of a married woman, or after its issue assigned, transferred, or in any way made payable to a married woman, or to any person in trust for her or for her benefit, whether procured by herself, her husband or by any other person, and whether the assignment or transfer is made by her husband or by any other person, shall inure to her separate use and benefit and to that of her children, if she should die in his lifetime.

Const., Art. X, s. 7; 1899, c. 54, s. 59.

4621. Life insurance company defined; requisites to contracts.

All corporations, associations, partnerships or individuals doing business in this state, under any charter, compact, agreement or statute of this or any other state, involving the payment of money or other thing of value to families or representatives of policy and certificate holders or members, conditioned upon the continuance or cessation of human life, or involving an insurance, guaranty, contract or pledge for the payment of endowments or annuities, or who shall employ agents to solicit business, shall be deemed to be life insurance companies, shall in all respects be subject to the laws herein made and provided for the government of life insurance companies, and shall not make any such insurance, guaranty, contract or pledge in this state with any citizen or resident thereof, which does not distinctly state the amount of benefits payable, the manner of payment and the consideration therefor.

1899, c. 54, s. 55.

4622. Prerequisites to doing business here; financial condition; number of policies; deposit. A company organized under the laws of any other of these United States for the transaction of life insurance may be admitted to do business in this state, provided it complies with the other provisions of this chapter regulating the terms and conditions upon which foreign life insurance companies may be admitted and authorized to do business in this state, and, in the opinion of the insurance commissioner, is in sound financial condition and has policies in force upon not less than five hundred lives for an aggregate amount of not less than five hundred thousand dollars. Any life company organized under the laws of any other country than the United States, in addition to the above requirements, must make and maintain the deposit required of such companies by subchapter four of this chapter.

1899, c. 54, s. 56.

4623. Discrimination between insurants forbidden. No life insurance company doing business in this state shall make any distinction or discrimination in favor of individuals between insurants of the same class and equal expectation of life in the amount of payment of premiums or rates charged for policies of life or endowment insurance, or in the dividends or other benefits payable thereon, or in any of the terms and conditions of the contracts it makes; nor shall any such company or any agent thereof make any contract of insurance or agreement as to such contract other than as plainly expressed in the policy issued thereon; nor shall any such company or agent pay or allow as inducement to insurance any rebate of premium payable on the policy, or any special favor or advantage in the dividends or other benefit to accrue thereon, or any valuable consideration or inducement whatever not specified in the policy contract of insurance.

1899, c. 54, s. 57; 1903, c. 438, ss. 5, 10.

Violation of this section subjects the offender to a fine by the commissioner and to revocation of license, see s. —.

4624. Distribution of surplus of mutual companies. Every life insurance corporation doing business in this state upon the principle of mutual insurance, or the members of which are entitled to share in the surplus funds thereof, may make distribution of such surplus as it may have accumulated annually, or once in two, three, four or five years as the directors thereof may from time to time determine. In determining the amount of the surplus to be distributed there shall be reserved an amount not less than the aggregate net value of all the outstanding policies, such value to be computed by the American experience table of mortality with interest not exceeding four and one-half per cent.

1903, c. 536, s. 10.

4625. Domestic companies to report outstanding policies; re-insurance fund to be calculated by commissioner. It shall be the duty of every life insurance company incorporated by the laws of this state to make returns in January of each year to the insurance commissioner of this state, showing all its policies and annuity bonds in force on the first day of that month, with such particulars of the same as are necessary for the valuation thereof as hereinafter directed. The insurance commissioner shall thereupon compute, or cause to be computed, the value of such policies and bonds, or what is known as the reinsurance fund therefor, according to the American experience table of mortality and interest at the rate of four and a half per centum, or according to the actuaries' mortality and four per centum interest, or according to any other recognized standard of valuation as he may deem best for the security of the business

and the safety of the persons insured; upon such valuation being made, a certificate thereof furnished by the insurance commissioner, each company shall pay to such officer, to defray the expense thereof, the sum of one cent for every thousand dollars of the whole amount insured by its policies so valued.

1903, c. 536, s. 4.

4626. Reinsurance of risks regulated. No domestic life insurance company shall reinsure its risks except by permission of the insurance commissioner, but may reinsure not exceeding one-half of any individual risk. It shall be lawful for the receiver of any life insurance company organized under the laws of this state, whenever the assets of such company shall be sufficient for that purpose, and the consent of two-thirds of the policyholders thereof shall have been had in writing, to reinsure all the policy obligations of such company in some other solvent life insurance company, or, whenever the assets are insufficient to secure the reinsurance of all the policies in full, he may reinsure such a percentage of each and every policy outstanding as the assets will secure; but there shall be no preference or discrimination as against any policyholder, and the contract for such reinsurance by the receiver shall be approved by the insurance commissioner of this state before it shall have effect.

1899, c. 54, s. 58; 1903, c. 536, s. 9.

4627. Medical examination, when required. No life insurance company organized under the laws of or doing business in this state shall enter into any contract of insurance upon lives within this state without having previously made or caused to be made a prescribed medical examination of the insured by a registered medical practitioner. This section shall not apply to the issuing of policies, or other contracts of insurance, for less than one hundred dollars.

1899, c. 54, s. 58; 1903, c. 438, s. 5.

Note. Violation of this section is a misdemeanor, see Crimes.

X. ASSESSMENT COMPANIES.

4628. Copies of charter and by-laws must be filed. Every corporation, company, society, organization or association of this or any other state or country, transacting business under this department upon the co-operative or assessment plan, shall file with the insurance commissioner, before commencing or continuing to do business in this state, a copy of its charter or articles of association, as well as the by-laws, rules or regulations referred to in its policies or certificates and made a part of such contract. No by-laws or regulations unless so filed with the insurance commissioner shall operate to

avoid or affect any policy or certificate issued by such company or association.

1899, c. 54, s. 86.

4629. All contracts must be in accord with charter and by-laws. Every policy or certificate or renewal receipt issued to a resident of this state by any corporation, association or order transacting therein the business of insurance upon the assessment plan, shall be in accord with the provisions of the charter and by-laws of such corporation, association or order, as filed with the insurance commissioner. And it shall be unlawful for any such domestic or foreign insurance company or fraternal order to transact or offer to transact any business not authorized by the provisions of its charter and the terms of its by-laws, or, through an agent or otherwise, to offer or issue any policy, renewal, certificate or other contract whose terms are not in clear accord with the powers, terms and stipulations of its charter and by-laws.

1899, c. 54, s. 84; 1903, c. 438, s. 9.

4630. Advance assessments, when required. Every domestic insurance company, association or order, doing business on the assessment plan shall collect and keep at all times in its treasury one regular loss assessment, sufficient to pay one regular average loss.

1899, c. 54, s. 84; 1903, c. 438, s. 9.

4631. Revocation of licenses. If any such corporation or association or order shall at any time fail or refuse to comply with the provisions of the two next preceding sections, or section forty-five hundred and sixty-two, the insurance commissioner shall forthwith suspend or revoke all authority to such corporation, association or order, and of all its agents or officers to do business in this state, and shall publish such revocation in some newspaper published in this state.

1899, c. 54, s. 85.

XI. FRATERNAL ORDERS.

4632. What laws applicable to. Nothing in the general insurance laws, except such laws as apply to fraternal orders, shall be construed to extend to benevolent associations, incorporated under the laws of this state that only levy an assessment on the members to create a fund to pay the family of a deceased member and make no profit therefrom, and do not solicit business through agents.

1899, c. 54, s. 87; 1901, c. 706, s. 2.

4633. Fraternal orders defined. Every incorporated association, order or society doing business in this state on the lodge system, with ritualistic form of work and representative form of government, for

the purpose of making provision for the payment of benefits in ease of death, sickness, temporary or permanent physical disability, either as the result of disease, accident or old age, formed and organized for the sole benefit of its members and their beneficiaries, and not for profit, is hereby declared to be a "fraternal beneficiary order, society or association;" and such order, society or association paying death benefits may also create, maintain, apply or disburse among its membership a reserve or emergency fund as may be provided in its constitution or by-laws; but no profit or gain shall be added to the payments made by a member. Any incorporated order, association or society not doing business on the lodge system, with ritualistic form of work, which is so conducted as to make it a fraternal beneficiary order, society or association within the true meaning of this chapter, and shall show such facts to the satisfaction of the commissioner, shall be permitted to do business in this state upon compliance with the laws applicable to "fraternal orders."

1899, c. 54, s. 88; 1901, c. 706, s. 3.

4634. Funds must be derived from assessments and dues.

The fund from which the payment of benefits, as provided for in the next preceding section, shall be made and the fund from which the expenses of such association, order or society shall be defrayed shall be derived from assessments or dues collected from its members. Such societies or associations shall be governed by the laws of the state governing fraternal orders, and shall be exempt from the provisions of all general insurance laws of this state, and no law hereafter passed shall apply to such societies unless fraternal orders be designated therein.

1899, c. 54, s. 89; 1901, c. 706, s. 2.

4635. Supreme governing body may meet out of the state; principal business office must be here. Any such society incorporated and organized under the laws of this state may provide for the meeting of its supreme legislative or governing body in any other state, province or territory wherein such society shall have subordinate lodges, and all business that has been heretofore or may hereafter be transacted at such meetings shall be as valid in all respects as if such meetings were held within this state; but the principal business office of such society shall always be kept within this state and never removed therefrom.

1899, c. 54, s. 91.

4636. Conditions precedent to doing business here. Any such fraternal beneficiary order, society or association as is defined by this chapter chartered and organized in this state, or organized and doing business under the laws of another state, district, province or

territory, upon satisfying the insurance commissioner that its business is proper and legitimate and so conducted, may be admitted to transact business in this state upon the same conditions as are prescribed by this chapter for admitting and authorizing foreign insurance companies to do business in this state, except that such fraternal orders shall not be required to have the capital required of such insurance companies.

1899, c. 54, s. 92; 1901, c. 706, s. 2; 1903, c. 438, s. 9.

XII. FIDELITY INSURANCE.

4637. May be guardian, personal representative, receiver, trustee and assignee, without bond. Any corporation licensed by the insurance commissioner, where such powers or privileges are granted it in its charter, may be guardian, trustee, assignee, receiver, executor or administrator in this state without giving any bond; and the clerks of the superior courts or other officers charged with the duty, or clothed with the power of making such appointments, are hereby authorized to appoint such corporation to any such office, whether the corporation be a resident of this state or not.

1899, c. 54, s. 47; 1903, c. 438, s. 5.

4638. License to do business. Before any such corporation shall be authorized to execute any bond, obligation or undertaking, or act in any fiduciary capacity without bond, it shall be licensed by the insurance commissioner of the state, which the commissioner is authorized to do when he is satisfied that such company or corporation is safe and solvent and has complied with the laws of this state applicable to such companies, and, if a foreign company, that it has also complied with the conditions, rules and regulations governing the admission of foreign insurance companies to do business in this state.

1899, c. 54, s. 46; 1901, c. 706, s. 1.

4639. Examinations as to solvency. The commissioner shall examine into the solvency of such corporation, and shall, if he deem it necessary, at the expense of such corporation, make or cause to be made an examination at the home office of such corporation of its assets and liabilities.

1899, c. 54, s. 46; 1901, c. 706.

4640. Certificate of solvency equivalent to justification. After any such corporation shall have been licensed by the commissioner, the certificate of the commissioner that such corporation has been admitted to do business in the state and is then licensed by the insurance commissioner and is solvent to an amount not less than one

hundred thousand dollars shall be, until such certificate is revoked by him, equivalent to the justification of sureties, and such certificate shall be full evidence of its authority to give such bonds or undertakings. There shall be no charge for the seal of such certificate.

1899, c. 54, s. 46; 1901, c. 706.

4641. Clerks superior courts notified; revocation of license.

The insurance commissioner, upon granting license to any such corporation, shall immediately thereafter notify the clerk of the superior court of each county in the state that such corporation has been licensed under this chapter; and whenever such commissioner shall be satisfied that any corporation licensed by him has become insolvent, or is in imminent danger of insolvency, he shall revoke the license granted to it, and notify the clerk of the superior court of each county of such revocation; and after such notification, the right of such corporation to hold any office, or be surety on any bond, as permitted by this chapter, shall cease.

1899, c. 54, s. 50.

4642. Resident agents required. All business done in this state by any fidelity insurance company must be done through regularly authorized agents residing in this state, or through applications of such agents; and all policies so issued must be countersigned by such agents.

1899, c. 54, s. 108; 1903, c. 438, s. 11.

XIII. BOND, INVESTMENT, ETC., COMPANIES.

4643. License; capital; supervision. Before any bond, investment, dividend, guarantee, registry, title guarantee, debenture or such other like company (not strictly an insurance company as defined in this chapter) shall be authorized to do business in this state, it must be licensed by the insurance commissioner, which the commissioner is authorized to do when he is satisfied that such company or corporation is safe and solvent, and has complied with the laws of this state applicable to fidelity companies and governing their admission and supervision by the insurance department. If such company is chartered and organized in this state and has its home office within the state, it may, if a stock company, commence business with a capital stock of twenty-five thousand dollars: Provided, it is solvent to the extent of not less than fifteen thousand dollars. The license issued to such companies and their agents shall be issued and paid for as provided for those of insurance companies.

1899, c. 54, s. 87; 1901, c. 706, s. 2.

XIV. GENERAL PROVISIONS.

4644. State law governs insurance contracts, when. All contracts of insurance on property, lives or interests in this state shall be deemed to be made therein; and all contracts of insurance, the application for which is taken within this state, shall be deemed to have been made within this state and shall be subject to the laws thereof.

1899, c. 54, s. 2; 1901, c. 705, s. 1.

4645. Unlawful to make or solicit contracts except under this chapter. It shall be unlawful for any company to make any contract of insurance upon or concerning any property or interest or lives in this state, or with any resident thereof, or for any person as insurance agent or insurance broker to make, negotiate, solicit or in any manner aid in the transaction of such insurance, unless and except as authorized under the provisions of this chapter.

1899, c. 54, s. 2.

4646. Statements and descriptions in application. All statements or descriptions in any application for a policy of insurance, or in the policy itself, shall be deemed and held representations and not warranties; nor shall any representation, unless material or fraudulent, prevent a recovery on the policy.

1901, c. 705, s. 2.

4647. Stipulations as to jurisdiction and limitation of actions. No company or order, domestic or foreign, authorized to do business in this state under this chapter, shall make any condition or stipulation in its insurance contracts concerning the court or jurisdiction wherein any suit or action thereon may be brought, nor shall it limit the time within which such suit or action may be commenced to less than one year after the cause of action accrues or to less than six months from any time at which a plaintiff shall take a nonsuit to an action begun within the legal time. All conditions and stipulations forbidden by this section shall be void.

1899, c. 54, ss. 23, 106; 1901, c. 391, s. 8.

Note. Violation of this section subjects offender to forfeiture, see Crimes.

4648. Resident agents required, when. All business done in this state by fire, steam-boiler, liability, accident, plate-glass, and fidelity insurance companies shall be issued by their regularly authorized agents residing in the state, or transacted through applications of such agents, and all policies so issued shall be countersigned by such agents.

1899, c. 54, ss. 107, 108; 1903, c. 438, s. 11.

Note. Violation of this section a misdemeanor, see Crimes.

4649. Companies must do business in own name. Every insurance company, foreign or domestic, shall conduct its business in the state in its own proper or corporate name, and the policies and contracts of insurance issued by it shall be headed or entitled only by its proper or corporate name.

1899, c. 54, s. 18.

4650. Publication of assets and capital regulated. When any company publishes its assets it shall in the same connection and with equal conspicuousness publish its liabilities computed on the basis allowed for its annual statements; and any publications purporting to show its capital shall exhibit only the amount of such capital as has been actually paid in cash.

1899, c. 54, s. 18.

Note. Violation of this section a crime, see Crimes.

4651. Agents, when personally liable. An insurance agent shall be personally liable on all contracts of insurance unlawfully made by or through him, directly or indirectly, for or in behalf of any company not authorized to do business in the state. Any person or citizen of the state who shall fill up or sign any open policy, certificate, blank or coupon of, or furnished by any unlicensed company, agent or broker, the effect of which shall be to bind any insurance in an unlicensed company on property in this state, shall be deemed the agent of such company, and personally liable for all licenses and taxes due on account of such transaction.

1899, c. 54, s. 70; 1903, c. 438, s. 7.

4652. Premium, payment to broker, etc., valid; obtaining by fraud, a crime. An insurance agent or broker who acts for a person other than himself in negotiating a contract of insurance shall, for the purpose of receiving the premium therefor, be held to be the company's agent, whatever conditions or stipulations may be contained in the policy or contract. Such agent or broker knowingly procuring by fraudulent representations payment, or the obligation for the payment of a premium of insurance, shall be punished as by law provided.

1899, c. 54, s. 69.

Note. Agent fraudulently obtaining premium guilty of a crime, see Crimes.

XV. INSPECTIONS AND INVESTIGATIONS.

4653. Office of chief of fire department created. There is hereby created in the cities and incorporated towns of the state where not already established by their charters the office of chief of fire department. It shall be the duty of such officer to do and perform

the duties prescribed in this subchapter, and such other duties as are prescribed in the charters and ordinances of the cities and towns of the state.

1901, c. 677, s. 1.

4654. Election, term of office, compensation and duties. Where it is not fixed in the charters of such cities and towns, it shall be the duty of the board of aldermen and commissioners in each city and town to elect such officer, and to fix the term of office, prescribe the duties and obligations and compensation of such officer, and change the duties and compensation from time to time, not inconsistent with the duties as prescribed in this subchapter.

1901, c. 677, s. 2.

4655. Additional duties of chief of fire department. Where such duties are not prescribed by the charters or governing board of incorporated cities and towns, it shall be the duty of such chief of fire department, in addition to the other duties prescribed by this subchapter to preserve and care for the fire apparatus, to have charge of the fighting and putting out of all fires, to make annual reports to the city or town governments, to seek out and have corrected all places and conditions dangerous to the safety of the city from fire, to look after buildings being erected with a view to their safety from fires and to do and perform such other duties as may be prescribed by the governing boards of the several cities and towns.

1901, c. 677, s. 3.

4656. Fires investigated; report; record of all fires kept. The insurance commissioner and the chief of the fire department, or chief of police where there is no chief of fire department, in cities and towns, and the sheriff of the county where such fire occurs outside of an incorporated city or town, are hereby authorized to investigate the cause, origin and circumstances of every fire occurring in such cities or towns or counties in which property has been destroyed or damaged, and shall specially make investigation whether such fire was the result of carelessness or design. A preliminary investigation shall be made by the chief of fire department or chief of police, where there is no chief of fire department, in incorporated cities and towns, and by the sheriff of the county where such fire occurs outside of an incorporated city or town, and shall be begun within three days, not including the Lord's day, of the occurrence of such fire, and the insurance commissioner shall have the right to supervise and direct such investigation whenever he deems it expedient or necessary. The officer making such investigation of fires shall forthwith notify the insurance commissioner,

and shall within one week of the occurrence of the fire furnish to such commissioner a written statement of all the facts relating to the cause and origin of the fire, the kind, value and ownership of the property destroyed, and such other information as may be called for by the blanks provided by the commissioner. The insurance commissioner shall keep in his office a record of all fires occurring in the state, together with all facts, statistics, and circumstances, including the origin of the fires which may be determined by the investigations provided for by this subchapter; such record shall at all times be open to public inspection.

1899, c. 58; 1901, c. 387; 1903, c. 719.

4657. Commissioner to take testimony, cause arrests and prosecutions, and furnish information to solicitor. It shall be the duty of the insurance commissioner to examine, or cause examination to be made, into the cause, circumstances and origin of all fires occurring within the state to which his attention has been called in accordance with the provisions of the next preceding section, or by interested parties, by which property is accidentally or unlawfully burned, destroyed or damaged, whenever in his judgment the evidence is sufficient, and to specially examine and decide whether the fire was the result of carelessness or the act of an incendiary. The commissioner shall, in person, by deputy or otherwise, fully investigate all circumstances surrounding such fire, and, when in his opinion such proceedings are necessary, take or cause to be taken the testimony on oath of all persons supposed to be cognizant of any facts or to have means of knowledge in relation to the matters as to which an examination is herein required to be made, and shall cause the same to be reduced to writing; and if he shall be of the opinion that there is evidence sufficient to charge any person with the crime of arson, or other wilful burning, he shall cause such person to be arrested and charged with such offense, and prosecuted, and shall furnish to the solicitor of the district all such evidence, together with the names of witnesses and all the information obtained by him, including a copy of all pertinent and material testimony taken in the case.

1899, c. 58, s. 2; 1901, c. 387, s. 2; 1903, c. 719.

4658. Commissioner and deputies may compel attendance of witnesses, administer oaths, enter premises by day or night, hold investigations in private, etc. The insurance commissioner, or his deputy appointed to conduct such examination, shall have the powers of a trial justice for the purpose of summoning and compelling the attendance of witnesses to testify in relation to any matter which is by provisions of this subchapter a subject of inquiry and investigation. The commissioner or his deputy may also administer oaths and

affirmations to persons appearing as witnesses before them; and false swearing in any such matter or proceeding shall be deemed perjury and shall be punished as such. The commissioner or his deputy shall have authority at all times of the day or night, in performance of the duties imposed by the provisions of this subchapter, to enter upon and examine any building or premises where any fire has occurred, and other buildings and premises adjoining or near the same. All investigations held by or under the direction of the commissioner or his deputy may, in their discretion, be private, and persons other than those required to be present by the provisions of this subchapter may be excluded from the place where such investigation is held, and witnesses may be kept separate and apart from each other, and not allowed to communicate with each other until they have been examined.

1899, c. 58, s. 3; 1901, c. 387, s. 3.

4659. Commissioner and others must inspect premises; may enter buildings, etc.; must order dangerous matter removed; orders must be obeyed; appeal; expenses and cost. The insurance commissioner, or the chief of fire department or chief of police where no chief of fire department, or local inspector of buildings in cities and towns where such officer is elected or appointed, shall have the right at all reasonable hours, for the purpose of examination, to enter into and upon all buildings and premises within their jurisdiction. It shall be the duty of the insurance commissioner to require in all incorporated cities and towns of the state that such officers shall make in their respective cities and towns annual inspections of the buildings in such cities and towns and quarterly inspection of all premises within the fire limits and report in detail the results of their inspection to the insurance commissioner upon blanks furnished by him. Whenever any of such officers shall find in any building or upon any premises combustible material or inflammable conditions dangerous to the safety of such building or premises they shall order the same to be removed or remedied, and such order shall be forthwith complied with by the owner or occupant of such building or premises, but if the owner or occupant shall deem himself aggrieved by such order he may, within twenty-four hours, appeal to the insurance commissioner, and the cause of the complaint shall be at once investigated by his direction, and unless by his authority the order of the officer above named is revoked such order shall remain in force and be forthwith complied with by the owner or occupant. The insurance commissioner, fire chief, or fire committee shall make an immediate investigation as to the presence of combustible material or the existence of inflammable conditions in any building or upon any premises under their jurisdiction upon

complaint of any person having an interest in such building or premises or property adjacent thereto. The insurance commissioner may, in person or by deputy, visit any city or incorporated town and make such inspections alone or in company with the local officer. The local inspector shall be paid by the city or town a reasonable salary or proper fees to be fixed by the governing board of such city or town.

1899, c. 58, s. 4; 1901, c. 387, s. 4; 1903, c. 719.

Note. Refusal to comply with this section renders owner guilty of a misdemeanor, see Crimes.

4660. Fire loss to be reported to commissioner before payment. Every insurance company transacting business in this state shall, upon receiving notice of loss by fire of property in North Carolina, on which it is liable under a policy of insurance, forthwith notify the insurance commissioner thereof, and no insurance upon any such property shall be paid by any company until one week after such notification. Any company violating this section may be fined by the insurance commissioner the sum of ten dollars for each and every offense, and, for refusal to comply with its provisions, its license may be cancelled by the commissioner.

1899, c. 54, s. 40; 1903, c. 438, s. 4.

4661. Special tax on fire companies to defray expenses. Any expenses, including counsel fees, expense of deputy, detectives and officers, incurred by the insurance commissioner in the performance of the duties imposed upon him by the provisions of this subchapter, shall be defrayed by the fire insurance companies doing business in this state and a tax of one-fifth of one per centum on the gross premium receipts of all such companies is hereby levied for this purpose, to be collected by the insurance commissioner as other taxes on insurance companies are collected. The commissioner shall keep a separate account of all moneys received and disbursed under the provisions of this section, and shall include same in his annual report.

4662. Reports of commissioner. The insurance commissioner shall submit annually, as early as consistent with full and accurate preparation, and not later than the first day of June, a detailed report of his official action under this chapter and it shall be embodied in his biennial report to the general assembly.

1899, c. 58, s. 7; 1901, c. 387, s. 7.

NOTE. Violations of this subchapter by officers made criminal, see Crimes. For false swearing in proceedings under it made perjury, see Crimes.

XVI. INSURING STATE PROPERTY.

4663. Commissioner to have charge of such insurance; keep a record, etc. It shall be the duty of the insurance commissioner to prepare a schedule of the different properties of the state and to procure policies of insurance thereon according to such schedules for such amounts as may be agreed upon by him and the board of officers having such property in charge, and to inspect and pass upon all policies of insurance issued upon the public buildings or other property belonging to the state, as regards the form of contract, rate, description and such other things as may be necessary to have such policies in proper form. He shall keep a record in his department, showing the number and date of policy, the name of company, the amount insured, the amount of premium, date of expiration, and the property insured and its location.

1901, c. 710, ss. 1, 2; 1903, c. 771, s. 1.

4664. Premiums, how paid; steps preliminary to payment. The premiums on all insurance of state property placed as provided in this subchapter, shall be paid on the order of the insurance commissioner by the officer or board having such property in charge out of the appropriation to such institution or any sum available therefor, unless the general assembly shall make a special appropriation therefor or provide otherwise for its payment. And before any board, public officer or other person charged with the custody or safe-keeping of any public building or other property of the state, shall pay any sum of money as premium for a policy of insurance thereon, they shall receive and file among their records a certificate of the insurance commissioner that he has examined and approved of the policies of insurance, and giving the number, amount, date, term and property covered, of such policies and the names of the companies in which they are written.

1901, c. 710, ss. 1, 2; 1903, c. 771, ss. 2, 3.

4665. Information to be furnished commissioner by state officials. It shall be the duty of the different officers or boards having in their custody any property belonging to the state to inform the commissioner, giving him in detail a full description of same, and keep him informed of any changes in such property or its location or surroundings.

1901, c. 710, ss. 1, 2; 1903, c. 771, s. 2.

4666. Commissioner to inspect state property. It shall be the duty of the commissioner at least once in each year, or oftener, if deemed necessary, to visit, inspect and thoroughly examine each state institution or other state property with a view to its protection

from fire, as well as to the safety of its inmates or the property therein, in case of fire, and call to the attention of the board or officer having the same in charge any defect noted by him or any improvement deemed necessary.

1901, c. 710, ss. 1, 2; 1903, c. 771, s. 3.

4667. Report required. The insurance commissioner shall submit annually to the governor a full report of his official action under this subchapter, with such recommendations as shall commend themselves to him, and it shall be embodied in or attached to his biennial report to the general assembly.

1901, c. 710, ss. 1, 2; 1903, c. 771, s. 4.

XVII. PENALTIES.

4668. Informer, other than commissioner, to have half. The person, if other than the insurance commissioner, or his deputy, upon whose complaint a conviction is had for violation of the law prohibiting insurance in or by foreign companies not authorized to do business in the state, or for soliciting, examining, inspecting any risk, or receiving, collecting or transmitting any premium, or adjusting or aiding in the adjustment of a loss, under a contract made otherwise than authorized by the laws of this state, shall be entitled to one-half of the penalty recovered therefor.

1899, c. 54, s. 93.

4669. Issuing certain fire policies contrary to law. Any insurance company or agent who shall make, issue or deliver a policy of fire insurance in wilful violation of sections forty-five hundred and seventy-two, forty-six hundred and four, and forty-six hundred and forty-seven shall forfeit for each offense not less than fifty nor more than two hundred dollars; but such policy shall, nevertheless, be binding upon the company issuing the same.

1899, c. 54, s. 99; 1903, c. 438, s. 10.

4670. Issue of fire policy other than standard. Any insurance company which shall cause to be issued and any agent who shall make, issue or deliver a policy of fire insurance other than the standard form of fire insurance policy, in wilful violation of this chapter, shall forfeit for each offense not less than fifty nor more than two hundred dollars.

1899, c. 54, s. 44.

4671. False swearing to certificate of mutual fire company. For taking a false oath in respect to the certificates required by sec-

tion forty-five hundred and eighty-seven the person taking such oath shall be deemed guilty of the crime of perjury.

1899, c. 54, s. 32; 1901, c. 391, ss. 3, 4; 1903, c. 438, s. 4.

NOTE. Agent or broker converting premium to his own use guilty of embezzlement, see Crimes.

Agent or broker acting in violation of this chapter guilty of misdemeanor, see Crimes.

Adjusting losses under unlawful insurance a misdemeanor, see Crimes.

Soliciting, inspecting, adjusting, collecting or transmitting premiums or committing any act in furtherance of unlawful insurance a misdemeanor, see Crimes.

False statements concerning applications for insurance, etc., misdemeanors and perjury, see Crimes.

CHAPTER 102.

INTERNAL IMPROVEMENTS.

(Sections 4672—4682.)

4672. Board of, a corporation; how appointed. The president and directors of the board of internal improvements shall consist of the governor of the state, who shall, *ex officio*, be president thereof, and of two commissioners to be appointed biennially by the governor, with the advice of the senate; any two of whom shall constitute a board for the transaction of business; and in case of vacancies occurring in the board, the same shall be filled by the other members. The governor and said members shall be a corporate body, under the name and style of The President and Directors of the Board of Internal Improvements, and shall have all the rights, powers, and privileges of a corporation which may be necessary to enable it to discharge the duties imposed on it and no more.

Code, s. 1688; R. C., c. 61, s. 1; 1819, c. 989, s. 3; 1836, c. 22, s. 2; 1874-5, cc. 83, 202; 1899, c. 68; 1901, c. 252.

4673. Meetings, when held; secretary. The board may hold their sessions whenever and wherever the governor may direct. The private secretary to the governor shall be *ex officio* secretary of the board.

Code, s. 1689; R. C., c. 61, s. 2; 1819, c. 989, s. 7; 1836, c. 22, s. 4; 1874-5, cc. 83, 203; 1903, c. 729.

4674. May make by-laws. The board may make such rules for the regulation of its proceedings, and all necessary by-laws, rules and regulations for the better ordering of the conduct of its offi-

cers, agents and servants as to them shall seem expedient, not inconsistent with the laws of the state.

Code, s. 1690; R. C., c. 61, s. 3; 1819, c. 989, s. 9; 1874-5, cc. 83, 202.

4675. Has charge of state's interest in railroads. The board shall have charge of all the state's interest in all railroads, canals, and other works of internal improvement.

Code, s. 1691; 1868-9, c. 270, s. 97; 1874-5, c. 83.

4676. Keep record of proceedings; report to general assembly; what report to contain. The board shall keep a fair and true record of all its proceedings, which shall at all times be open to the inspection of the members of the general assembly and others interested therein, and shall biennially report to the general assembly—

1. The condition of all railroads, canals, or other works of internal improvement, owned or operated exclusively by the state, and they shall at the same time suggest such improvement, enlargement or extension of such work as they shall deem proper, and such new works of similar nature as shall seem to them to be demanded by the growth of trade or the general prosperity of the state.

2. The amount, condition and character of the state's interest in other roads, canals, or other works of internal improvement in which the state has taken stock, to which she has loaned money, or whose bonds she holds as security.

3. The condition of such roads or other corporate bodies as are referred to in the previous section, in detail, giving their entire financial condition, the amount and market value of the stock, receipts and disbursements for the previous year or since the last report; the amount of real and personal property of such corporations, its estimated value, and such suggestions with regard to the state's interest in the same as may to them seem warranted by the status of the corporation.

4. And also the names of all persons failing or refusing to report as is required by law.

And this report the governor shall transmit to the general assembly with his message.

Code, s. 1692; R. C., c. 61, s. 4; 1819, c. 989, s. 12; 1868-9, c. 270, s. 98; 1874-5, cc. 83, 202, s. 3.

4677. Duty of board as to improvements ordered by general assembly. Whenever the general assembly shall direct any public improvement the board shall let the same out by contract, and take from the contractor a bond with sufficient security, payable to the state of North Carolina in double the sum paid or contracted to be

paid, with the condition that he will faithfully perform his contract according to the plans or specifications agreed on.

Code, s. 1696; R. C., c. 61, s. 7; 1825, c. 1296; 1874-5, c. 83.

4678. Board appoints state proxies. The board of internal improvements shall appoint on behalf of the state all such officers or agents as, by any act incorporating a company for the purpose of internal improvement, are allowed to represent the stock or other interests which the state may have in such company; and such person or persons shall cast the vote to which the state may be entitled in all the meetings of the stockholders of such company.

Code, s. 1718; R. C., c. 61, s. 38; 1874-5, c. 83.

4679. Governor to have state institutions investigated by. The governor is authorized and empowered, whenever he may think the public service requires it, to have the affairs of any railroad, turnpike, canal or public institution in which the state has an interest investigated by a member of the board of internal improvements, and to take such action concerning any matter reported upon as the said board may deem to the interest of the state.

Code, s. 1719; 1903, c. 729; 1879, c. 281.

4680. Power of member, when making investigation. The member of the board appointed for the investigation mentioned in the preceding section shall have power to administer oaths, send for persons and papers, and all powers granted to a committee of investigation appointed by the general assembly.

Code, s. 1720; 1879, c. 281, s. 2.

4681. Officers to execute process of. Sheriffs shall execute writs of such member of the board of internal improvements as they would for a judicial officer of the state, and shall be allowed the same compensation therefor.

Code, s. 1721; 1879, c. 281, s. 3.

4682. State stockholder in works of internal improvement, when. Whenever an appropriation shall be made by the state to any work of internal improvement conducted by a corporation, the state shall be considered, unless otherwise directed, a stockholder in such corporation, and shall have as many shares as may correspond with the amount of money appropriated; and the acceptance of such money shall be deemed to be a consent of the corporation to the terms herein expressed.

Code, s. 1697; R. C., c. 61, s. 8; 1819, c. 989, s. 12; 1874-5, c. 83.

CHAPTER 103.

MILITIA.

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I. GENERAL PROVISIONS.

4683. Who liable for duty in. All able-bodied male citizens of the state of North Carolina, between the ages of twenty-one and forty-five years, who are citizens of the United States, shall be liable to duty in the militia: Provided, that all persons who may be averse to bearing arms from religious scruples, shall be exempt therefrom.

Const., Art. XII, s. 1.

4684. Divided into active and inactive. The militia shall be divided into two classes, the active and inactive. The active militia shall consist of all regularly enlisted volunteers; the inactive militia shall consist of all other persons subject to military duty.

1893, c. 374, s. 1.

4685. Commander-in-chief; power to call out. The governor shall be commander-in-chief, and shall have power to call out the militia to execute the law, suppress riots or insurrection, and to repel invasion.

Const., Art. XII, s. 3.

4686. Active first ordered out. In all cases the active militia hereinafter provided for shall first be ordered into service.

1893, c. 374, s. 3.

4687. White and colored enrolled separately; only white officers. The white and colored militia shall be separately enrolled and shall never be compelled to serve in the same organization. No organization of colored troops shall be permitted while white troops are available, and when permitted to be organized, colored troops shall be under command of white officers.

Code, ss. 3163, 3256; 1893, c. 374, s. 2; 1899, c. 390, s. 1; 1868, c. 22, s. 9; 1876-7, c. 272, s. 1.

4688. Commander-in-chief prescribes rules for its government.

The governor, as commander-in-chief, may from time to time prescribe such orders, rules, regulations, forms and proceedings as he may think proper (not inconsistent with the discipline prescribed by the United States) for the use, government and instruction of the militia.

1893, c. 374, s. 6.

4689. Discipline. The active militia, and the inactive militia when called into active service, shall be organized and disciplined in the same manner, and according to the rules and regulations required by the congress of the United States for the organizing and disciplining the national guard, and when in active service shall be subject to the articles of war as prescribed by the United States.

4690. Ordered out for service; failure to appear; penalties.

Every soldier ordered out for active duty, or who shall volunteer or be drafted, who does not appear at the time and place ordered, or who has not some able-bodied and proper substitute at such time and place, or does not furnish a reasonable excuse for such nonappearance, shall be liable to such punishment as a court-martial may determine.

Code, s. 3259; 1876-7, c. 272, s. 4.

4691. When paid. The militia of the state, both officers and privates, when called into the service of the state, shall receive the same pay and rations as when called into the service of the United States.

Code, s. 3248; R. C., c. 70, s. 84; 1813, c. 850, s. 5.

4692. By whom paid. When the militia or any portion thereof shall be called into actual service according to law to serve any county of the state, or for guarding the jail of such county on account of prisoners from some other county being imprisoned in such jail, the county commissioners of the county from which said prisoners may be or may have been taken shall audit the account of said militia and draw a warrant upon the county treasurer for the same, and the county treasurer shall pay the same out of any county funds not otherwise appropriated.

Code, s. 3247; 1869-70, c. 164, s. 3.

4693. May be ordered on duty; pay. The governor may, whenever the public service requires it, detail for special duty or regular duty any officer of the national guard, and his expenses and compensation therefor shall be paid upon the approval of the governor and warrant of the auditor. Such compensation shall not exceed four dollars per diem. No staff officer who receives a salary as such

shall be entitled to any additional compensation for any service connected with his office.

Code, s. 3257; 1883, c. 283, s. 4; 1887, c. 193, s. 1.

II. OFFICERS.

4694. How appointed and commissioned. All officers of the militia shall be appointed and commissioned by the commander-in-chief. He may revoke the commission of any officer at any time. When not in active service, the officers of the active militia, below the rank of brigadier general, shall be previously elected or nominated as provided by law.

Code, ss. 3161, 3263, 3264; 1893, c. 374, s. 19.

4695. To take and subscribe oath of office. Every commissioned officer of the militia, before entering upon his duties, shall take and subscribe before a justice of the peace, or other qualified officer, the oath prescribed by the constitution, which shall at once be forwarded to the adjutant general.

Code, ss. 3162, 3265; 1893, c. 374, s. 7.

4696. Rank according to date of commission. Commissioned officers shall take rank according to the date of their commissions. The day of appointment or election of an officer shall be expressed in his commission and considered as the date thereof. Whenever an officer shall be recommissioned within six months after the expiration or revocation of his original commission, in the same grade in which he has served in the state guard, his new commission shall bear date even with, and he shall take rank from, the date provided for in his former commission. When two commissions bear the same date, the officer who has had priority of rank in any lower rank shall have precedence. And if the officers have not served in a lower grade the commander-in-chief shall designate their respective rank or priority.

Code, s. 3266; 1876-7, c. 272, s. 11.

4697. Reports by. Every officer shall make all such reports as may be required of him by any law or regulation or as may be called for by any superior officer.

Code s. 3267; 1876-7, c. 272, s. 12.

4698. Staff; how divided. The military staff of the state of North Carolina shall be divided into two kinds, the personal staff of the commander-in-chief and the general or departmental staff. All staff officers shall hold office until their successors are appointed and qualified, but may be removed at any time by the governor.

1893, c. 374, s. 9.

4699. Commander-in-chief's personal staff. The personal staff of the commander-in-chief shall consist of four aides-de-camp with the rank of colonel, and the governor may appoint his private secretary as his military secretary and commission him with the rank of major.

1893, c. 374, s. 9.

4700. General or departmental staff. The general or departmental staff shall consist of an adjutant general with the rank of brigadier general, one inspector general, one quartermaster general, who shall be chief of ordinance; one surgeon general, one commissary general, one chief engineer, one inspector of small arms practice, one judge advocate general, one paymaster general, each with the rank of colonel. The commander-in-chief may appoint additional assistants to each of said offices with rank not higher than that of lieutenant colonel, if in his judgment it is best for the interest of the service.

1893, c. 374, s. 9.

4701. Adjutant general; duties. The adjutant general shall be chief of staff. He shall preserve in his office all records, books, papers, documents and other matters relating to the militia; he shall keep a roster of the names and dates of the commissioned officers of the militia; he shall keep a record of all enlistments made in any branch of the militia and all discharges; he shall distribute all orders from the commander-in-chief of the state to the several corps, and shall preserve the originals of all such orders, attend all such public reviews or encampments as he may be required by the commander-in-chief, obey all orders from him relative to carrying into execution and perfecting the system of military discipline established by law, furnish all necessary blank books for the use of the several corps and blanks for all returns required by law or regulations to be made, explaining the principle upon which they shall be used or made; receive from the several officers of the different corps throughout the state all such returns as may be required, reporting the number and names of men in their commands in active duty or in the active militia, the actual situation and condition of all arms and equipment in their possession and their delinquencies, and all other things that may be for the good of the militia, its advancement and discipline; all which said returns the several officers in the militia are required to make as they may be directed; to make an annual report of the condition of the active militia, all of the public arms and property to the governor, and a biennial report to the general assembly, together with such suggestions for the improvement of the militia, both active and inactive, as he may deem necessary. The adjutant general shall also make all returns that may be

required by the laws of the United States to the president of the United States, or such other officer as the law may direct. A copy of all such reports shall be sent to the commander-in-chief and filed in the adjutant general's office. All orders or returns may be transmitted by mail or telegraph. The adjutant general shall be allowed all such necessary expenses as may be incurred for clerk hire and for printing and making the blank forms, books, orders and reports required in his office, not to exceed one thousand dollars; and out of said sum may employ the executive clerk, when not required by the governor, at a salary of twenty-five dollars per month.

1893, c. 374, s. 10; 1899, c. 390, ss. 2, 3; 1903, c. 548.

4702. Duties of general staff. The duties of the other staff officers shall be such as are discharged by similar officers in the United States army, and such other duties as they may be directed to perform by order of the commander-in-chief. And in the case of disbursing or distributing officers the governor shall have power to prescribe forms of bonds for the faithful performance of duty, which shall not exceed in amount twice the sums of money or property passing annually into their hands.

1893, c. 374, s. 12.

4704. Absent, give notice. When any officer shall have occasion to be absent from his usual residence two weeks or more, he shall notify the officer next entitled to the command, and also his next superior officer in command, of his intended absence.

Code, s. 3175; R. C., c. 70, s. 12; 1806, c. 708, s. 18.

4705. For what officer cashiered. Dishonest or ungentlemanly conduct in an officer shall be punished by cashiering, and disabling him from ever holding a military commission.

Code, s. 3236; R. C., c. 70, s. 74; 1808, c. 749, s. 1.

4706. Delivers public property to successor. All officers who shall have in their hands either money, public property or papers received by virtue of their appointments, shall, when they leave their office, pay and deliver the same to their successors in office.

Code, s. 3176; R. C., c. 70, s. 13; 1806, c. 708, s. 19.

4707. Accounts for public property. Every officer receiving public property or money for military use shall be accountable for the articles so received by him, and make return of such property or money at such times and in such manner and on such forms as may be prescribed. He shall be liable to trial by court-martial upon neglect of duty, and also make good the value of all such property or money defaced, injured, destroyed or lost by any neglect or default on his part, to be recovered in an action at law to be instituted

at the order of the adjutant general. All money received on account of such loss or damage shall be paid to the paymaster general and shall be accounted for in his return.

1893, c. 374, s. 29.

III. DISCHARGES.

4707a. Honorable discharge; dismissal. A commissioned officer may be honorably discharged upon tender of resignation, upon disbandment of the organization to which he belongs, upon the report of the board of examination, or for failure to appear before such board when ordered. He may be dismissed upon the sentence of a court-martial or conviction in a court of justice of an infamous offense.

1893, c. 374, s. 24.

4708. Certificates of, given. Every soldier discharged from the service shall be furnished with a certificate of such discharge, which shall state clearly the reasons therefor. Dishonorable discharges will have the word "Dishonorable" written or printed diagonally across their faces in large characters with red ink, and the re-enlistment clause will be erased by a line.

1893, c. 374, s. 27.

4709. Honorable. No enlisted man shall be honorably discharged before the expiration of his term of service, except by order of the commander-in-chief and for the following reasons: Upon his own application, approved by the commanding officer of his company and by superior commanders; when not in active service upon removal from the county in which the organization of which he is a member is situated; upon disability, established by certificate of medical officer; to accept promotion by commission whenever in the opinion of the commander-in-chief the interest of the service demands such discharge.

1893, c. 374, s. 25.

4710. Dishonorable. Enlisted men shall be dishonorably discharged by order of the commander-in-chief, to carry out a sentence of court-martial, upon conviction of felony in a civil court; upon discovery of re-enlistment after previous dishonorable discharge.

1893, c. 374, s. 26; 1903, c. 548, s. 4.

4711. Lost discharge papers. Duplicate discharges will not be granted to enlisted men. Should any soldier unavoidably lose his discharge papers, a certificate (according to form in the office of the adjutant general) will be furnished in lieu of said discharge paper, upon representation of the facts of said loss, attested by some commissioned officer of the guard or some civil magistrate.

IV. COURTS-MARTIAL.

4712. How formed and governed. Courts-martial for the militia shall be governed according to the laws and regulations of the United States.

1893, c. 374, s. 8.

4713. Witnesses before, how subpoenaed. The judge advocate of any court-martial constituted according to this chapter may issue a summons, in the nature of a subpoena in criminal cases, directed to any sheriff or constable or to any soldier, to summon witnesses for the state and the accused; and the persons summoned by him shall be bound to attend and give evidence before the court-martial, under the same penalties as in criminal actions, and if a soldier, under penalty of being tried and punished by court-martial for disobedience of orders.

Code, s. 3230; R. C., c. 70, s. 68; 1817, c. 955, s. 8.

4714. Witnesses sworn. All witnesses shall be sworn by the judge advocate, before they give their evidence, as in criminal cases, according to the following form:

You,, do swear, that the evidence you will give to the court in the case between the state and C. D., shall be the truth, the whole truth, and nothing but the truth; so help you God.

Code, s. 3231; R. C., c. 70, s. 69; 1817, c. 955, s. 9.

V. ARMS AND EQUIPMENT.

4715. Same as U. S. army and navy. The uniform, arms and equipment of the militia shall, for the land forces, be in accordance with the regulations governing the United States army; and for the naval forces in accordance with the regulations governing the United States navy.

Code, ss. 3173, 3271; 1893, c. 374, s. 28; 1893, c. 399; 1903, c. 548, s. 5.

4716. How obtained. Each company of the national guard, on application by the commander thereof to the adjutant general, through his regimental and brigade commanders, if there be such, and producing satisfactory evidence that the law in relation to the distribution of public arms has been fully complied with, shall be furnished with such appropriate arms and equipment as shall be determined by the commander-in-chief upon such terms and under such conditions as the law prescribes.

Code, s. 3272; 1876-7, c. 272, s. 17.

4717. May adopt corps uniform. Any organization of the active militia, with the approval of the commander-in-chief, may adopt a

corps dress other than that prescribed by the commander-in-chief, provided such uniform shall not be worn when such organization is on duty under orders of the commander-in-chief, or upon any of the drills or parades or encampments required by law or the regulations prescribed for the government of the national guard.

1893, c. 374, s. 31.

4718. Bond. Commanders of regiments and companies, and all other officers who are responsible for public military property, shall execute and deliver to the adjutant general a bond, payable to the state of North Carolina, in a sufficient sum and with sufficient sureties, to be approved by the governor, conditioned for the proper care and use of said public property, and the return of the same, when ordered by competent authority, in good order, ordinary wear and unavoidable loss and damage excepted; and in case of such loss or damage to immediately furnish the adjutant general with properly attested affidavits, setting forth all the facts attending said loss or damage.

4719. Care and return of military property. All public military property, except when in use in the performance of military duty, shall be kept in armories, or other properly designated places of deposit; and it shall be unlawful for any person charged with the care and safety of said public property to allow the same out of his custody except as above specified.

VI. PUBLIC ARMS.

4720-1. Where kept. All the public arms of every description belonging to the state, which may not be distributed among the militia according to law, shall, under the direction of the adjutant general, be deposited and kept in the public arsenal established at Raleigh.

Code, s. 3548; R. C., c. 89, s. 1; 1820, c. 1058; 1822, c. 1168; 1868, c. 31; 1846, c. 31.

4722. Keeper of the arsenal. The keeper of the capitol shall, under the direction of the adjutant general, have charge of the arsenal at Raleigh. The governor may make such provisions as he may think necessary for guarding and protecting the arsenals and depots of arms, and for the purpose of defraying the expenses incurred under this and the preceding section, he may, upon the certificate of the adjutant general, from time to time draw on the state treasurer for such sums as may be necessary.

Code, s. 3549; R. C., c. 89, s. 2; 1822, c. 1168; 1828, c. 31; 1830, c. 21, s. 5; 1846, c. 3; 1848, c. 6; 1852, c. 52.

4723. Freight on public arms paid out of general fund. The auditor of the state is hereby authorized and directed to issue his warrant upon the state treasurer for the payment of such sums as may be certified by the adjutant general and governor, and as may be actually necessary to pay the freight and drayage upon the public arms received as the quota of North Carolina from the United States government, under the acts making provision for the arming of the militia of the several states and territories, or returned to the arsenals of the United States for exchange.

Code, s. 3552; 1874-5, c. 21.

4724. Kept in good order. Every noncommissioned officer and private belonging to any company equipped with public arms, shall keep and preserve his arms and accoutrements in good order and in a soldier-like manner; and for every neglect to do so may be punished by court-martial.

Code, s. 3555.

4725. Receipts taken for, when distributed. Every officer of the militia receiving any public arms shall give a duplicate receipt for the same to the party from whom he receives such arms. Upon distribution of any arms to any of the militia, either active or inactive, receipts shall be taken from each person receiving the same, which receipts should be entered in a bound book, which shall at all times be open to the inspection and examination of all officers of the militia.

Code, s. 3554.

4726. Governor to send out, in case of insurrection. In case of insurrection or invasion, or a probability thereof, the governor is authorized to distribute the public arms and send them to such places as he may deem necessary and expedient, and to draw warrants on the treasurer of the state for the sums necessary for that purpose.

Code, s. 3553; R. C., c. 89, s. 5; 1830, c. 21, s. 3.

4727. When arms loaned to military schools. The said arms shall be kept in the arsenal at Raleigh, and upon the application of the principal of any military school setting forth the number of students and the number of arms required, and giving the bond, as now required by law, it shall be the duty of the adjutant general, under the direction of the governor, to issue the number so required, and take the receipt from the principal, which shall be filed as similar receipts are now filed.

Code, s. 3560; 1873-4, c. 96, s. 2.

4728. Failure of adjutant general to draw arms. Should the adjutant general, under the direction of the governor, fail to draw

the arms specified, then it shall be the governor's duty, upon application as aforesaid, to issue to said principal any arms which may be in the said arsenal.

Code, s. 3561; 1873-4, c. 96, s. 3.

VII. ACTIVE.

4729. How designated. The active militia shall be known and designated as the "North Carolina National Guard," and shall at all times be subject to the orders of its officers.

1893, c. 374, s. 13; 1903, c. 548, s. 1.

4730. Number limited. The national guard of North Carolina shall not in time of peace consist of more than five thousand officers and enlisted men.

Code, s. 3285; 1893, c. 374, s. 15; 1903, c. 548, s. 1.

4731. Who may enlist; term of enlistment. Able-bodied men of good moral character who can read and write, between the ages of eighteen and forty-five years, may enlist in the national guard; such enlistment shall be for a period of three years and made by signing duplicate enlistment papers in such form as may be prescribed by the adjutant general, one to be forwarded to him by the enlisting officer and one to be filed with the records of the company in which enlistment is made.

1893, c. 374, s. 13; 1899, c. 390, s. 4.

4732. When ordered out. The national guard shall be liable at all times to be ordered into active service. The commander-in-chief may at any time, upon reasonable apprehension of riot, insurrection or invasion, or for any other reasonable cause, order out such portion of the active militia as he may deem necessary.

1893, c. 374, s. 14.

4733. Divided into land and naval forces. The commander-in-chief may organize the national guard into such brigades, regiments, battalions, companies or unattached companies as he may think best for the public service, and may allow to be enrolled not more than eight companies, to be designated as divisions, which shall constitute the naval brigade of North Carolina national guard.

Code, s. 3261; 1893, c. 374, s. 15; 1893, c. 399, s. 1.

4734. Maintenance of. There shall be allowed annually to each brigadier general, commander of a regiment and of the naval brigade the sum of one hundred and fifty dollars with which to defray the necessary expenses incurred in the discharge of the duties of his office. There shall be allowed annually to each company and naval

division in the state guard not exceeding thirty-six companies of infantry and eight divisions of the naval battalion, which complies with the law and regulations relating thereto, and upon the recommendation of the inspector general, the sum of two hundred and fifty dollars, and to a detachment of artillery under like restrictions the sum of two hundred and fifty dollars, to be applied to the payment of armory rent, insurance and other necessary expenses of the company, division or detachment; and to each regimental band one hundred dollars, to be paid to the regimental adjutant under like restrictions. And an itemized statement of receipts and disbursements from every source, showing how the same has been expended, shall on December first of each year be rendered to the paymaster general. These appropriations shall be paid in semi-annual instalments, but shall not be paid unless the company, division, detachment, or band shall perform all the drills and parades required by law, and at the annual inspection thereof shall have paraded with at least seventy-five per cent. of its enrolled active members: Provided, that such companies, divisions or detachments shall be located on lines of railroad, steamboat or telegraphic communication: And provided further, that no larger amount shall be expended for the maintenance of the national guard, including salaries, office expenses and expenses of encampments and practice marches than the sum of sixteen thousand dollars.

1893, c. 374, s. 36; 1899, c. 390, s. 8; 1903, c. 548, s. 7.

4735. Governor disburses appropriations for. The governor shall have power to make such use of any appropriation made by Congress for the militia as he may deem best for the arming, equipment, support, maintenance and discipline of the national guard. The expenditures shall be made under his direction by such officers as he may direct and a report of the same shall appear in the annual report of the adjutant general.

Code, s. 3200; 1883, c. 283, s. 5.

VIII. ACTIVE—OFFICERS.

4736. Brigade officers. The commander-in-chief shall appoint a brigadier general to command the national guard of the state as now organized, and whenever it shall become necessary to organize the same into more than one brigade, the commanders of such brigades shall be appointed by the commander-in-chief. The staff officers of the brigade shall be nominated by the permanent commander thereof.

1893, c. 374, s. 20; 1899, c. 390, s. 2; 1903, c. 548, s. 2.

4737. Regimental and company officers. There shall be to each brigade, regiment, battalion, troop of cavalry or battery of light

artillery the same commissioned and noncommissioned officers as are prescribed for the United States army, and the governor may by general order fix the number of enlisted men.

1893, c. 374, s. 17.

4738. Officers to be examined. Every person accepting an election or nomination as an officer in the national guard shall, within six months thereafter, if ordered by the commander-in-chief, appear before an examining board, to be appointed by the commander-in-chief, which board shall examine said officer as to his military and other qualifications.

1893, c. 374, s. 22.

4739. Regimental officers, how elected. Field officers of regiments and battalions, and of corresponding grades in the naval brigades, shall be elected by the commissioned officers of the regiments and naval brigade, and company, battery, troop and naval division officers shall be elected by the enlisted men of such company, battery, troop and naval division at such time and place as may be fixed by the commander-in-chief, and such officers shall hold office until vacancies occur, either by promotion, resignation, removal or death. The regimental staff officers shall be nominated by the permanent commander thereof.

1893, c. 374, s. 21; 1903, c. 548, s. 3.

4740. Election to fill vacancies in line officers. The commander-in-chief shall order elections to fill all vacancies occurring among the line officers of the national guard.

1893, c. 374, s. 23.

4741. Retirement of officers. Whenever an officer of ten years' service and upward makes application for retirement he may, by consent of the commander-in-chief, be retired with the next higher grade, and all officers now on the retired list of the national guard of this state are advanced one grade.

IX. ACTIVE—INSPECTION.

4742. Annual inspection. An annual inspection and muster of all organizations of the national guard shall be made by the inspector general, or his assistants, at such time and place as the commander-in-chief may order and direct. No person shall be mustered at the annual inspection and muster or be permitted in the ranks in any parade or drill required by orders or regulations, who does not appear uniformed, armed and equipped according to the provisions thereof.

1893, c. 374, s. 33.

4743. Arms to be annually inspected. The inspector general shall annually inspect the arms and equipments in possession of the active militia, or of any schools, persons or associations, and shall cause to be returned to the state arsenal all such property which he at any time shall find to be damaged by neglect or improper use. The expenses of such inspection shall be paid by the state.

Code, s. 3273; 1876-7, c. 272, s. 18.

4744. Encampments may be ordered. The commander-in-chief may annually order into camp or on practice marches such portions of the national guard as he sees proper. The period of such encampment or practice march shall not exceed ten days, including the time traveling to and from camp of mobilization: Provided, that in place of encampment or practice marches the naval battalion may perform service afloat.

1893, c. 374, s. 37; 1899, c. 390, s. 9.

X. ACTIVE—DISBANDED.

4745. When. Whenever any company or division of the national guard for a period of ninety days is found to contain less than the minimum number of men prescribed by regulations, or upon a duly ordered inspection shall be found to have fallen below a proper standard of efficiency, the commander-in-chief may disband the same and grant honorable discharges to the officers and enlisted men of such company.

1893, c. 374, s. 18.

4746. Failure to perform duty, penalty. If any officer or soldier shall absent himself from any military duties required by orders or regulations without having obtained the permission of his commanding officer, or without an excuse satisfactory to his commanding officer, he shall be brought to trial, if an enlisted man or company officer, before his company officers or remaining company officers as the case may be; if a field officer before the remaining field officers of his regiment who, under oath to duly administer justice, which oath shall be administered by the junior officer, shall determine the matter, and if adjudged guilty these officers shall impose a fine of not exceeding five dollars, and if said fine is not promptly paid the offender, if an enlisted man, may be imprisoned in the county jail for a period of not exceeding five days, and the company commander's commitment to jail in such case shall be duly recognized by the county sheriff. If the delinquent is an officer, the matter shall be reported for the action of higher authority: Provided, that fines collected from enlisted men shall be turned over to the credit of the companies to which they belong, to be used for its current expenses, and that fines

paid by officers shall be turned over to the paymaster general for the use of the state guard: Provided further, that the principles of discipline herein set forth shall apply to the naval battalion in assimilated grades.

1899, c. 390, s. 7.

4747. Falsifying muster roll, penalty. Any officer who knowingly or wilfully shall place, or cause to be placed, on any muster roll the name of any person not regularly or lawfully enlisted, or the name of any enlisted man who is dead or who has been discharged, transferred, or has lost membership for any cause whatsoever, or who has been convicted of any infamous crime, shall be tried by court-martial and upon conviction be dismissed from the service.

1893, c. 374, s. 33.

XI. COMPANY ORGANIZATION.

4748. Certificate of membership. The commanding officer of every company shall, on the application of any officer, musician or private of his command, deliver to him a certificate stating that such person is a member of his command and whether he is uniformed, armed and equipped, and whether he has complied with all military duties. Such certificate when dated within six months shall be presumptive evidence of the matter therein stated.

Code, s. 3282; 1881, c. 366, s. 2.

4749. Contributing members. Each company may, besides its regular and active members, enroll twenty-five contributing members on payment in advance by each person desiring to become such contributing member of not less than ten dollars per annum, which money shall be paid into the company treasury and be applied to the purchase of uniforms for the rank and file of the active members of the company, or to such purposes as may be authorized by such company.

Code, s. 3283; 1881, c. 366, s. 3.

4750. Certificate of contributing members. Each contributing member of every legally organized company shall be entitled to receive from the commanding officer thereof a certificate of membership.

Code, s. 3284; 1881, c. 366, s. 4.

4751. May own personal property. Organizations of the national guard shall have the right to own and keep personal property, which shall belong to and be under the control of the active members thereof; and the commanding officer of any organization may recover for its use any debts or effects belonging to it, or damages

for injury to such property, action for such recovery to be brought in the name of the commanding officer thereof before any court of justice within the state, and no suit or complaint pending in his name shall be abated by his ceasing to be commanding officer of the organization; but upon motion of the commander succeeding him such commander shall be admitted to prosecute the suit or complaint in like manner and with like effect as if it had been originally commenced by him.

1893, c. 374, s. 32.

4752. Companies may make rules and regulations. Each company or division of the national guard shall have power to prescribe such rules and regulations for its government as they may think proper, and fix such fines for absence from parades and drills as may be reasonable and not inconsistent with the laws relating to the national guard and the regulations prescribed therefor by the commander-in-chief. A copy of such constitution and by-laws shall be filed in the adjutant general's office.

1893, c. 374, s. 34.

XII. ACTIVE—NAVAL.

4753. Perform same duty as land forces. Officers and enlisted men of the naval guard shall perform the same duty in each year as is required of the land forces, except that such duty, or any part of it, may be performed afloat.

1893, c. 399, s. 8.

4754. System of discipline. The system of discipline shall conform generally to that of the navy of the United States and as closely to that of the land forces of this state as the difference in the two services will allow.

1893, c. 399, s. 7.

4755. May be organized into a brigade. The naval divisions may be, by order of the commander-in-chief, organized into a brigade of not more than two battalions. The commander-in-chief shall appoint a commander of such brigade, who shall have power to prescribe and nominate his own staff and the staff of the battalion commanders.

1893, c. 399, s. 2; 1899, c. 442, s. 1.

4756. How officered and organized. A battalion of three or more divisions shall be commanded by a commander with a lieutenant commander as executive officer, and a lieutenant as navigator and ordnance officer. These latter shall be in the order named next in rank and in succession to command to the commander. A battal-

ion of less than three divisions shall be commanded by a lieutenant commander with a lieutenant as executive officer, navigator and ordnance officer, who shall be next in rank and in succession to command to the lieutenant commander; each division shall be commanded by a lieutenant and shall contain one lieutenant junior grade, one ensign and thirty-six petty officers and enlisted men as a minimum and seventy-five petty officers and enlisted men as a maximum. To each division there may also be added eight others who shall have practical knowledge of electricity or of the management of steam machinery.

1893, c. 399, s. 3; 1899, c. 442, s. 2.

4757. Battalion commander to appoint staff. The commanding officer of the battalion as now organized shall have power to appoint a staff to consist of a surgeon, paymaster and a chaplain, each with the rank of lieutenant, and an adjutant with the rank of lieutenant junior grade, and the following petty officers: One master-at-arms, one chief boatswain's mate, one chief gunner's mate, one yeoman, one apothecary, one chief bugler. The commander-in-chief shall have the power to authorize additional officers and prescribe their work if the exigencies of the service demand.

1893, c. 399, s. 5; 1899, c. 442, s. 3.

4758. Naval rank. The rank of officers in the naval forces is "naval rank" and corresponds to rank in the land forces, as follows: Captain with colonel; commander with lieutenant colonel; lieutenant commander with major; lieutenant with captain; lieutenant junior grade with first lieutenant; ensign with second lieutenant; petty officers with noncommissioned officers, and enlisted men with privates.

1893, c. 399, s. 6.

4759. Governor may apply for instructors. The governor is authorized to apply to the president of the United States for the detail of commissioned and petty officers of the navy to act as inspectors and instructors.

1893, c. 399, s. 9.

XIII. INACTIVE.

4760. May be ordered out. The commander-in-chief may at any time, in order to execute the law, suppress riots or insurrection, or repel invasion, in addition to the active militia, order out the whole or any part of the inactive militia.

4761. How ordered out. The commander-in-chief shall, when ordering out the inactive militia, designate the number ordered out.

He may order them out either by calling for volunteers or by draft. He may attach them to the several organizations of the active militia or organize them into separate brigades, regiments, battalions or companies, as may be best for the service.

4762. How drafted. If the inactive militia is ordered out by draft the commander-in-chief shall designate the persons in each county to make the draft, and prescribe rules and regulations for conducting the same.

4763. Roll of inactive militia. The register of deeds of each county shall, on the first Monday in October of the year one thousand nine hundred and six, and quadrennially thereafter, make out from the tax list of his county an alphabetical list of all able-bodied male persons between the ages of twenty-one and forty years, resident in his county and who are not enrolled in the active militia, and shall forward the same on or before the fifteenth of the month to the adjutant general. The whites and negroes shall be enrolled separately, and shall be designated. These rolls shall constitute the rolls of the inactive militia. For this service the register of deeds shall receive one cent for every ten names. The rolls so made up shall be used in making all drafts from the inactive militia.

4764. Subject to same regulations as active. Whenever any part of the inactive militia is ordered out, it shall be governed by the same rules and regulations and subject to the same penalties as the active militia.

NOTE. For bond of adjutant general, see Bonds.

Bond of paymaster general, see Bonds.

Perjury before court-martial, see Crimes.

Selling or secreting military property, see Crimes.

Falsifying muster rolls, see Crimes.

Retaining military property, see Crimes.

CHAPTER 104.

MINES.

	Sections.
I. Operators,	4765—4777
II. Inspector,	4778—4787
III. Waterways obtained,	4788—4792

I. OPERATORS.

4765. Lessor not held partner of lessee. No lessor of property, real or personal, for mining purposes, although the lessor may receive a sum uncertain of the proceeds or net profits, or any other consideration, which, though uncertain at first, may afterwards become certain, shall be held as a partner of the lessee; nor shall any of the legal or equitable relations or liabilities of copartners exist between them, unless it be so stipulated in the contract between the lessor and lessee.

Code, s. 3292; R. C., c. 72; 1830, c. 46.

4766. Not to employ minors under twelve. No minor under twelve years of age shall be allowed to work in any mine, and in all cases of minors applying for work the agent of such mine shall see that the provisions of this section are not violated; and the inspector may, when doubt exists as to the age of any person found working in any mine, examine under oath such person and his parents, or other witnesses as to his age.

1897, c. 251, s. 7.

4767. To furnish timber. The owner, agent or operator of every coal mine shall keep a supply of timber constantly on hand, and shall deliver the same to the working place of the miner, and no miner shall be held responsible for accident which may occur in the mine where the provisions of this section have not been complied with by the owner, agent or operator thereof, resulting directly or indirectly from the failure to deliver such timber.

1897, c. 251, s. 8.

4768. To fence unused mines. All underground entrances to any place not in actual course of working or extension shall be properly fenced across the whole width of such entrance so as to prevent persons from inadvertently entering the same.

1897, c. 251, s. 5.

4769. Means of ingress and egress provided. No owner or agent of any coal mine worked by shaft shall permit any person to

work therein unless there are, to every seam of coal worked in such mine, at least two separate outlets, separated by natural strata of not less than one hundred feet in breadth, by which shafts or outlets distinct means of ingress and egress are always available to the persons employed in the mine; but it is not necessary for the two outlets to belong to the same mine if the persons employed therein have safe, ready and available means of ingress or egress by not less than two openings. This section shall not apply to opening a new mine while being worked for the purpose of making communications between said two outlets, so long as not more than twenty persons are employed at one time in such mine; neither shall it apply to any mine or part of a mine in which the second outlet has been rendered unavailable by reason of the final robbing of pillars previous to abandonment, as long as not more than twenty persons are employed therein at any one time. The cage or cages and other means of egress shall at all times be available for the persons employed when there is no second outlet. The escapement shafts shall be fitted with safe and available appliances, which shall always be kept in a safe condition, by which the persons employed in the mine may readily escape in case an accident occurs; and in no case shall an air shaft with a ventilating furnace at the bottom be construed to be an escapement shaft within the meaning of this section. To all other coal mines, whether slopes or drifts, two such openings or outlets must be provided within twelve months after shipments of coal have commenced from such mine; and in case such outlets are not provided as herein stipulated, it shall not be lawful for the agent or owner of such slope or drift to permit more than ten persons to work therein at any one time.

1897, c. 251, s. 4.

4770. Hoisting engines, how operated. No owner or agent of any mine operated by a shaft or slope shall place in charge of any engine used for lowering into or hoisting out of mines persons employed therein any but experienced, competent and sober engineers, and no engineer in charge of such engine shall allow any person except such as may be deputed for such purposes by the owner or agent to interfere with it or any part of the machinery, and no person shall interfere or in any way intimidate the engineer in the discharge of his duties, and in no case shall more than two men ride on any cage or car at one time, and no person shall ride upon a loaded cage or car in any shaft or slope.

1897, c. 251, s. 6.

4771. Ventilation. The owner or agent of any coal mine, whether shaft, slope or drift, shall provide and maintain for every such mine an amount of ventilation of not less than one hundred cubic feet

per minute per person employed in such mine, which shall be circulated and distributed throughout the mine in such a manner as to dilute, render harmless and expel the poisonous and noxious gases from each and every working place in the mine, and no working place shall be driven more than sixty feet in advance of a break through or airway, and all break throughs or airways, except those last made near the working places of the mine, shall be closed up by brattice trap-doors, or otherwise so that the currents of air in circulation in the mine may spread to the interior of the mine when the persons employed in such mine are at work, and all mines governed by this chapter shall be provided with artificial means of producing ventilation, such as forcing or suction fans, exhaust steam furnaces, or other contrivances of such capacity and power as to produce and maintain an abundant supply of air, and all mines generating fire damp shall be kept free from standing gas.

1897, c. 251, s. 5.

4772. Daily examinations; safety lamps. Every working place shall be examined every morning with a safety lamp by a competent person before any workmen are allowed to enter the mine. All safety lamps used in examining mines, or for working therein, shall be the property of the operator of the mine, and a competent person shall be appointed, who shall examine every safety lamp before it is taken into the workings for use, and ascertain it to be clean, safe and securely locked, and safety lamps shall not be used until they have been so examined and found safe and clean and securely locked, unless permission be first given by the mine foreman to have the lamps used unlocked. No one, except the duly authorized person shall have in his possession a key, or any other contrivance, for the purpose of unlocking any safety lamp in any mine where locked lamps are used. No matches or any other apparatus for striking lights shall be taken into any mines, or parts thereof, except under the direction of the mine foreman.

1897, c. 251, ss. 5, 6.

4773. Report of ventilation. The mine foreman shall measure the ventilation at least once a week, at the inlet and outlet, and also at or near the face of all the entries, and the measurement of air so made shall be noted on blanks furnished by the inspector; and on the first day of each month the mine boss of each mine shall sign one of such blanks, properly filled with the said actual measurement, and present the same to the inspector.

1897, c. 251, s. 6.

4774. Notice of opening or changing mines given. The owner, agent or manager of any mine shall give notice to the inspector in

the following cases: 1. When any working is commenced for the purpose of opening a new shaft, slope or mine, to which this chapter applies. 2. When any mine is abandoned, or the working thereof discontinued. 3. When the working of any mine is recommenced after an abandonment or discontinuance for a period exceeding three months. 4. When a squeeze or crush, or any other cause or change, may seem to affect the safety of persons employed in the mine, or when fire occurs.

1897, c. 251, s. 7.

4775. Accidents; notice of, given. The owner, agent or manager of every mine shall, within twenty-four hours next after any accident or explosion, whereby loss of life or personal injury may have been occasioned, send notice, in writing, by mail or otherwise, to the inspector, and shall specify in such notice the character and cause of the accident, and the name or names of the persons killed and injured, with the extent and nature of the injuries sustained. When any personal injury of which notice is required to be sent under this section results in the death of the person injured, notice in writing shall be sent to the inspector within twenty-four hours after such death comes to the knowledge of the owner, agent or manager; and when loss of life occurs in any mine by explosion, or accident, or results from personal injuries so received, the owner, agent or manager of such mine shall notify the coroner of the county in which such mine is situated, and the coroner shall hold an inquest upon the body of the person whose death has been thus caused, and inquire carefully into the cause thereof, and return a copy of the finding of the jury and all the testimony to the inspector.

1897, c. 251, s. 6.

4776. Report to inspector. The owner, lessee or agent in charge of any mine, any limestone quarry, or who is engaged in mining or producing any mineral whatsoever in this state, shall, on or before the thirtieth day of November in every year, send to the office of the inspector upon blanks to be furnished by him a correct return, specifying with respect to the year ending on the preceding first day of October the quantity of coal, iron ore, fire-clay, limestone or other mineral product of such mine or quarry, and the number of persons ordinarily employed in or about such mine or quarry below and above ground, distinguishing the persons and labor below ground and above ground.

1897, c. 251, s. 3.

4777. Liable for injuries. For any injury to person or property occasioned by any wilful violation of this chapter, or any wilful failure to comply with its provisions, by any owner, agent or mana-

ger of the mine, a right of action shall accrue to the party injured for any damage he may have sustained thereby; and in any case of loss of life by reason of such wilful neglect or failure aforesaid a right of action shall accrue to the personal representative of the deceased, as in other actions for wrongful death.

1897, c. 251, s. 6.

II. INSPECTOR.

4778. Commissioner of labor and printing is, ex officio. The commissioner of labor and printing shall perform the duties of mine inspector as provided in this chapter.

1897, c. 251, s. 1.

4779. To examine mines. It shall be the duty of the inspector to examine all the mines in the state as often as possible to see that all the provisions and requirements of this chapter are strictly observed and carried out; he shall particularly examine the works and machinery belonging to any mine, examine into the state and condition of the mines as to ventilation, circulation and condition of air, drainage and general security.

1897, c. 251, s. 2.

4780. May enter to make examinations. For the purpose of making the inspection and examinations provided for in this chapter, the inspector shall have the right to enter any mine at all reasonable times, by night or by day, but in such manner as shall not unnecessarily obstruct the working of the mine; and the owner or agent of such mine is hereby required to furnish the means necessary for such entry and inspection; the inspection and examination herein provided for shall extend to fire-clay, iron ore and other mines as well as coal mines.

1897, c. 251, s. 2.

4781. Death by accident investigated. Upon receiving notice of any death resulting from accident it shall be the duty of the inspector to go himself, or send a representative, at once to the mine in which said death occurred and inquire into the cause of the same, and to make a written report fully setting forth the condition of that part of the mine where such death occurred and the cause which led to the same; which report shall be filed by the inspector in his office as a matter of record and for future reference.

1897, c. 251, s. 6.

4782. Keep record of examinations. He shall make a record of all examinations of mines, showing the date when examination made, the condition in which the mines are found, the extent to which the

laws relating to mines and mining are observed or violated, the progress made in the improvements and security of life and health sought to be secured by the provisions of this chapter, number of accidents, injuries received or deaths in or about the mines, the number of mines in the state, the number of persons employed in or about each mine, together with all such other facts and information of public interest, concerning the condition of mines, development and progress of mining in the state as he may think useful and proper, which record shall be filed in the office of the inspector, and as much thereof as may be of public interest to be included in his annual report.

1897, c. 251, s. 2.

4783. Preserve papers. He shall keep in his office and carefully preserve all maps, surveys and other reports and papers required by law to be filed with him, and so arrange and preserve the same as shall make them a permanent record of ready, convenient and connected reference.

1897, c. 251 s. 3.

4784. To enforce law; counsel furnished. In case of any controversy or disagreement between the inspector and the owner or operator of any mine or the persons working therein, or in case of conditions or emergencies requiring counsel, the inspector may call on the governor for such assistance and counsel as may be necessary. Should the inspector find any of the provisions of this chapter violated or not complied with by any owner, lessee or agent in charge, unless the same is within a reasonable time rectified, and the provisions of this chapter fully complied with, he shall institute an action in the name of the state to compel the compliance therewith. The inspector shall exercise a sound discretion in the enforcement of this chapter.

1897, c. 251, s. 2.

4785. Enjoin operations when law violated. On application of the inspector, after suit brought as directed in the preceding section, any court of competent jurisdiction may enjoin or restrain the owner or agent from working or operating such mine until it is made to conform to the provisions of this chapter; and such remedy shall be cumulative, and shall not take the place of or affect any other proceedings against such owner or agent authorized by law for the matter complained of in such action.

1897, c. 251, s. 7.

4786. Report to governor. The inspector shall annually make report to the governor of all his proceedings, the condition and opera-

tion of the different mines of the state, and the number of mines and the number of persons employed in or about such mines, the amount of coal, iron ore, limestone, fire-clay or other mineral mined in this state; and he shall enumerate all accidents in or about the mines, and the manner in which they occurred, and give all such other information as he thinks useful and proper, and make such suggestions as he deems important relative to mines and mining, and any legislation that may be necessary on the subject for the better preservation of the life and health of those engaged in such industry.

1897, c. 251 s. 3.

4787. To what applicable. The provisions of this chapter shall not apply to or affect any mine in which not more than ten men are employed at the same time; but the inspector shall at all times have free ingress to such mines for the purpose of examination and inspection, and shall direct and enforce any regulation in accordance with the provisions of this chapter that he may deem necessary for the safety of the health and lives of the miners employed therein.

1897, c. 251, s. 8.

III. WATERWAYS OBTAINED.

4788. Water and drainage rights, how obtained. Any person or body corporate engaged or about to engage in mining, who may find it necessary for the furtherance of his operations to convey water either to or from his mine or mines over the lands of any other person or persons, may make application by petition in writing to the clerk of the superior court of the county in which the lands to be affected or the greater part are situate, for the right so to convey such water. The owner of the lands to be affected shall be made a party defendant and the proceeding shall be conducted as other special proceedings.

Code, ss. 3293, 3294, 3300; 1871-2, c. 158, ss. 1, 3.

4789. The petition, what to contain. The petition shall specify the lands to be affected, the name of the owner of such lands, and the character of the ditch or drain intended to be made.

Code, s. 3294, 1871-2, c. 158, s. 3.

4790. Appraisers; appointment, duties and pay of. Upon the hearing of the petition, if the prayer thereof be granted, the clerk shall appoint three disinterested persons, qualified to act as jurors, and not connected either by blood or marriage with the parties, appraisers to assess the damage, if any, that will accrue to the lands by the contemplated work, and shall issue a notice to them to meet upon the premises at a day specified, not to exceed ten days from the date of such notice. The appraisers having met, shall take an

oath before some officer qualified to administer oaths, to faithfully perform their duty and to do impartial justice in the case, and shall then examine all the lands in any way to be affected by such work, and assess the damage thereto, and make report thereof under their hands and seals to the clerk from whom the notice issued.

Code, ss. 3295, 3296, 3299; 1871-2, c. 158, ss. 4, 5, 9.

4791. Confirmation of report; payment of damages; rights of petitioner. After the filing of the report and confirmation thereof by the clerk, who shall have power to confirm or, for good cause, set aside the same, the petitioner shall have full right and power to enter upon such lands and make such ditches, drains or other necessary work: Provided, he has first paid or tendered the damages, assessed as above, to the owner of such lands or his known and recognized agent, if he be a resident of this state, or have such agent in this state. If the owner be a nonresident and have no known agent in this state, the amount so assessed shall be paid by the petitioner into the office of the clerk of the superior court of the county for the use of such owner.

Code, s. 3297; 1871-2, c. 158, s. 7.

4792. Registration of report. The petitioner, or any other person interested, may have the report of the appraisers registered upon the certificate of the clerk and shall pay the register a fee of twenty-five cents therefor.

Code, s. 3298, 1871-2, c. 158, s. 8.

NOTE. Violations of law of mining a misdemeanor, see Crimes.

CHAPTER 105.

PENSIONS.

	Sections.
I. Pension boards,	4793—4798
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I. PENSION BOARDS.

4793. State. The governor, attorney general and auditor shall be constituted a state board of pensions, which shall examine each application for a pension, and for this purpose it may take other

testimony than that sent up by the county boards. Such applications as are approved by the state board shall be paid by the treasurer upon the warrant of the auditor.

1903, c. 273, s. 5.

4794. Auditor transmits list of pensioners to clerk. The auditor shall, as soon as the same is ascertained, transmit to the clerks of the superior courts of the several counties a correct list of the pensioners, with their postoffices, as allowed by the state board of pensions.

1903, c. 273, s. 15.

4795. Make rules. The state board of pensions is hereby empowered to prescribe rules and regulations for the more certainly carrying into effect this chapter according to its true intent and purpose.

1903, c. 273, s. 17.

4796. County. The clerk of the superior court, together with three reputable ex-Confederate soldiers, to be appointed by the auditor, shall constitute a county board of pensions for their county.

1903, c. 273, s. 5.

4797. Examination and classification. All persons entitled to pensions under this chapter, not now drawing pensions, shall appear before the county board of pensions on or before the first Monday in July of each year, for examination and classification in compliance with the provisions of this chapter. But upon presentation to the board of the certificate of a reputable physician, residing in the county, that, to his own knowledge, any applicant for a pension is physically or mentally incapable of attending, such applicant shall be excused from attendance.

1903, c. 273, s. 2.

4798. Roll revised annually. On the first Monday of July of each year the pension board of each county shall revise and purge the pension roll of the county, first giving written notice of ten days to the pensioner who is alleged not to be rightfully on the state pension roll, to show cause why his name should not be stricken from the pension list, and said board shall meet another day to consider the subject of purging the said list.

1903, c. 273, s. 6.

II. WHO ENTITLED; AMOUNT.

4799. Persons in militia service. Every person who may have been disabled by wounds in the militia service of the state, or ren-

dered incapable thereby of procuring subsistence for himself and family, and the widows and orphans of such persons who may have died from such wounds, or from disease contracted in such service, shall be entitled to pensions as hereinafter provided for Confederate soldiers.

Code, s. 3472; R. C., c. 84.

4800. Totally blind; loss of both hands or feet. All ex-Confederate soldiers and sailors who have become totally blind since the war, or who lost their sight or both hands or feet in the Confederate service, shall receive from the public treasury one hundred and twenty dollars a year.

1901, c. 332, s. 5; 1899, c. 619.

4800a. Totally blind and disabled. The clerk of the superior court under his seal of office shall certify to the governor, giving the name and the number of the blind and maimed soldiers examined in his county, upon which the auditor, with the approval of the governor, is authorized to issue his warrant to the treasurer to pay the sum of one hundred and twenty dollars annually for each blind and maimed person named in the certificate, and the said clerk shall pay out such money monthly to the persons entitled to the same.

Code, s. 3479; 1879, c. 193, s. 4; 1883, c. 341.

4801. Other disabilities from wounds and injuries; widows. There shall be paid out of the treasury of the state, on the warrant of the auditor to every person who has been for twelve months immediately preceding his application for pension a bona fide resident of the state, and who is incapacitated for manual labor and was a soldier or a sailor in the service of the Confederate States of America, during the war between the states, and to the widow of any deceased officer, soldier or sailor who was in the service of the Confederate States of America during the war between the states (provided such widow was married to such sailor or soldier before the first day of April, one thousand eight hundred and sixty-five, and if she has married again, is a widow at the date of her application), the following sums annually according to the degree of disability ascertained by the following grades, viz.: First, to such as have received a wound which renders them totally incompetent to perform manual labor in the ordinary avocations of life, seventy-two dollars; second, to such as have lost a leg above the knee, or an arm above the elbow, sixty dollars; third, to such as have lost a foot or leg below the knee, or a hand or arm below the elbow, or have a leg or arm rendered utterly useless by reason of a wound or permanent injury, forty-eight dollars; fourth, to such as have lost an eye, and to widows,

and all other soldiers who are now three-fourths disabled from any cause to perform manual labor, thirty dollars.

1903, c. 273, s. 1.

4802. Who not entitled. No person shall be entitled to receive the benefits of this chapter who owns property in his own right or in the right of his wife the tax valuation of which exceeds the sum of five hundred dollars, or who, having owned property in excess of five hundred dollars, has disposed of the same by gift or voluntary conveyance to his wife, or child, or children, or next of kin, or to any other person, since the eleventh day of March, one thousand eight hundred and eighty-five, or who is an inmate of the soldiers' home at Raleigh, or a state hospital for the insane, or who was a deserter, nor the widow of such deserter; or who receives a pension from any other state, or the United States; or who holds a national, state or county office which pays annually a salary or in fees the sum of three hundred dollars, or who is receiving aid from the state under any act providing for the relief of soldiers who are blind or maimed; but no soldier who has been honorably discharged or who was in service at the surrender shall be considered a deserter in the meaning of this chapter.

1903, c. 273, ss. 3, 4, 10, 9; 1899, c. 605, s. 3.

III. APPLICATIONS.

4803. Forms provided by auditor. The auditor shall provide and have printed and sent to the clerks of the superior courts of the several counties, for use of applicants, blank applications for pensions allowed under this chapter.

1903, c. 273, s. 11.

4804. By whom made. No soldier, officer, sailor or widow shall be entitled to the benefits of this chapter except upon his or her own application, or, in case he or she is insane, upon the application of his or her guardian.

1903, c. 273, s. 9.

4805. Filed with clerk; what to contain. Before any officer, soldier or sailor, not now receiving a pension, shall receive any part of the annual appropriation made for pensions he shall, on or before the first Monday in July of every year, file with the superior court clerk of the county wherein he resides, an application for relief, setting forth in detail the company and regiment or battalion in which he served at the time of receiving the wound, the time and place of receiving the wound; whether he has an annual income of three hundred dollars, or over, from any municipal, state or federal office, or

other source; whether he is worth in his own right, or in the right of his wife, property at its assessed value for taxation to the amount of five hundred dollars; whether he is receiving any aid from the state of North Carolina under any other statute providing for the relief of the maimed and blind soldiers of the state; and whether he has been a citizen of the state of North Carolina for twelve months next preceding the application. Such application shall be verified by the oath of the applicant, made before any one empowered to administer oaths, and shall be accompanied by the affidavit of one or more credible witnesses, stating that he or they verily believe the applicant to be the identical person named in the application and the facts stated in the application to be true; and when the county board of pensions is satisfied with the justness of the claim made by the applicant they shall so certify the same to the auditor under their hands and the seal of the superior court of their county, which shall be impressed by the clerk of the superior court of the county; and there shall accompany the certificate so sent to the auditor the application, affidavit and proofs taken by them, which papers shall be kept on file in the auditor's office. Clerks of the superior courts shall receive no fees whatsoever for services required of them by this chapter.

1903, c. 273, ss. 5, 6.

4806. Clerk to forward to auditor. It shall be the duty of the clerk of the superior court of the county where the application is filed to forward to the auditor immediately after the certificate required by the next preceding section is made and before the first Monday in August in each year, the application and proofs and certificates, and upon the state board of pensions being satisfied of the truth and genuineness of the application, the auditor shall issue his warrant on the treasurer for the same.

1903, c. 273, s. 7.

4807. Certificate of clerk instead of. After an application has once been passed upon and allowed by the county and state boards, it shall be necessary only for the applicant to file with the auditor a certificate from the clerk of the superior court of the county in which his application was originally filed, setting forth that the applicant is the identical person named in the original application which is on file in the auditor's office, and that the applicant is alive, but still disabled, and a citizen of this state, and still entitled to the benefits of this chapter. If any reputable person shall file with the auditor a written statement suggesting fraud in such certificate, the auditor shall present the matter to the state board, which shall investigate and pass upon it before the auditor draws his warrant for the payment of the amount to which the applicant would be entitled.

1903, c. 273, s. 8.

IV. WARRANTS.

4808. When issued; where sent. No warrant shall be issued for any sum appropriated under this chapter in favor of any applicant until after the first day of September of each year. The warrants for pensioners shall be sent by the auditor to the clerk of the superior court of the county in which the pensioners reside, and it shall be the duty of the clerk of the superior court to acknowledge to the auditor the receipt of such warrants by the next mail after their receipt, and the clerk of the superior court shall forthwith deliver or mail to each pensioner in his county his warrant, and post in the courthouse a list of the pensioners to whom he has mailed or delivered warrants.

1903, c. 273, ss. 9, 14.

4809. To whom payable; how endorsed. The auditor shall issue his warrant payable to the pensioner, or order, and such warrant shall not be paid by the treasurer without the endorsement of the payee or his duly appointed attorney in fact, specially authorized to make such endorsement; and if such endorsement is made by the payee it shall be attested by the official signature of the clerk of the superior court or some justice of the peace of the county in which such payee resides, and if such endorsement is made by the attorney in fact of the payee, a copy of the power of attorney, duly attested by the clerk of the superior court or a justice of the peace of the county in which the payee resides, shall be attached to the warrant.

1903, c. 273, s. 13.

4810. Payable after death of claimant. It shall be lawful for the treasurer to pay any warrant issued by the auditor to any person drawing a pension under the laws of this state for any balance due such pensioner from the time of the last payment up to the time of his death. The warrant shall be accompanied by an affidavit, made before an officer having a seal of office, by a reputable person, to the effect that the pensioner is dead, and that the warrant is issued as a balance due the pensioner up to the time of his death.

1895, c. 228.

NOTE. Speculating in pension warrants a misdemeanor, see Crimes.

V. FUNDS COLLECTED AND DISBURSED.

4811. Tax collected. The auditor shall provide a column on the tax list for the year one thousand nine hundred and five, and annually thereafter, to be called pensions for disabled Confederate sol-

diers, sailors and widows. This tax shall be collected and paid into the treasury by the sheriffs as are other state taxes.

1903, c. 273, s. 18.

4812. Deficiency provided for. If the fund collected from the special pension tax in any year should be insufficient to pay in full all of the pensions which have been allowed, the treasurer shall pay such pensions out of the general fund in the treasury; but in no year shall the total amount paid for pensions exceed two hundred thousand dollars. In case the amount appropriated for the payment of pensions be insufficient to pay the same in full, then the appropriation shall be annually apportioned pro rata among the several grades of pensioners provided for in this chapter.

1903, c. 273, ss. 1, 19.

VI. SPECIAL PRIVILEGE TO DISABLED VETERANS.

4814. May peddle without license. All ex-Confederate soldiers who are without means of support other than their manual labor and who are incapacitated to perform manual labor for any reason other than by their vicious habits, and now citizens of this state, shall be allowed to peddle drugs, goods, wares and merchandise in any of the counties of this state without a license therefor. Before any soldier shall be entitled to the benefits of this chapter he shall make application to the county board of pensions of the county of which he is a resident and show to the satisfaction of said county board of pensions that he is entitled to the same by having served in the Confederate army or navy during the war between the states, and that he is incapacitated to perform manual labor, and does not own property the tax valuation of which exceeds the sum of five hundred dollars in his own name or in the name of his wife, deeded to her by him since the first day of March, one thousand nine hundred and two.

1903, c. 530.

NOTE. Officer failing to discharge duty guilty of misdemeanor, see Crimes.

For penalty for speculating in pensions, see Crimes.

For compensation of county board, see Salaries and Fees.

For pensions to certain named persons, see 1899, cc. 605, 660.

CHAPTER 106.

PUBLIC BUILDINGS AND GROUNDS.

(Sections 4815—4827.)

4815. Board of public buildings; keeper of the capitol. The board of public buildings and grounds shall appoint a keeper of the capitol, public grounds and arsenal, who shall hold his office until his successor is appointed, and files his bond, as required in the chapter entitled Bonds. The keeper of the capitol shall perform all the duties and have all the rights as hereinafter prescribed. As to the manner of performing his duties he shall be under the general direction of a board known as the board of public buildings and grounds, consisting of the governor, secretary of state, treasurer and attorney general; but he shall have the absolute right to appoint and control all lawful subordinates, such as watchmen of the capitol, workmen on the grounds, and servants about the capitol and its appurtenances, except the servant and messenger waiting and attending upon the supreme court. And, with the approval of the marshal of the supreme court, he shall appoint one janitor, but not more than one, of the supreme court building, whom he shall, in like manner, have the right to remove.

Code, s. 2301; 1899, c. 482; 1870-1, cc. 8, 175; 1880, c. 61.

4816. Arsenal. The keeper of the capitol shall also have charge of the arsenal located in the capitol square, under the superintendence of the adjutant general, and the separate office of keeper of the arsenal is hereby abolished.

Code, s. 2302; 1870-1, c. 175, s. 3.

4817. Duties of the board and the keeper. The board of public buildings and grounds shall take charge of and keep in repair the public buildings of the state in the city of Raleigh; shall, from time to time, as the same may be needed, procure, furnish, and keep in repair for the halls of the senate and house of representatives and the public offices of the capitol all necessary furniture, and the keeper shall take care of the furniture, sweep and cleanse off cobwebs and dust from all the unoccupied parts of the buildings; keep the keys of the several doors not occupied as offices, and conduct visitors through the capitol, whenever requested to do so; shall, under the direction of the board, trim or remove trees standing in the public square, and remove the leaves and other rubbish as often as may be necessary; and shall perform any other duty required by this chapter, of which he is capable, whenever especially ordered by the board

to do so. The board at all times is required to use such means as may secure the capitol from fire.

Code, s. 2303; R. C., c. 103, s. 3.

4818. Keeper of capitol supervisor of public lots. The keeper of the capitol is appointed supervisor of all the other public lots belonging to the state in the city of Raleigh, except such as may be occupied by the institution for the deaf and dumb, and the public schools, and Moore and Nash squares, and such other vacant lots as are by this chapter placed in charge of the city of Raleigh, and he is authorized to lease such lots or such parts thereof as it may be proper to lease, and upon such terms as may be reasonable and proper, for the period of twelve months, and he is required to turn over the proceeds of such renting to the governor whenever the same be demanded, after retaining for his services ten per cent. thereof.

Code, ss. 2312, 2314; 1870-1, c. 282, s. 3; 1871-2, c. 205.

4819. Rooms assigned to different officers. The rooms of the capitol, other than the senate chamber and house of representatives, shall be appropriated as follows: The two west rooms of the southern division of the capitol shall be appropriated to the executive; the two east rooms in the southern division shall be appropriated to the treasurer; the two east rooms in the northern division shall be appropriated to the secretary of state, and the two rooms opposite to the auditor; the upper room in the east wing to the insurance commissioner; and the room number three, in the west wing, shall be appropriated and set apart to the enrolling clerks of the general assembly. The other rooms shall be used for state purposes under the direction of the board of public buildings.

Code, s. 2305; R. C., c. 103, s. 5; 1885, c. 121, s. 8.

4820. Supreme court building. The supreme court, supreme court clerk, attorney general, superintendent of public instruction, supreme court library, and state library shall each occupy the rooms set apart for them in the supreme court building.

1885, c. 121, ss. 5, 7.

4821. Rooms for the corporation commission. The four rooms now occupied by the corporation commission, in the agricultural building, be and the same are hereby set aside for the exclusive use of the said corporation commission. The remaining portion of the agricultural building shall be used by the department of agriculture and for a museum.

1893, c. 228.

4822. Sleeping apartments not allowed. The rooms in the capitol and supreme court building shall not be used as sleeping

apartments, and no beds shall be kept in any room save only that used by the keeper; and he shall remove all beds and sleeping couches which may be introduced by any person into any of the rooms; and shall take charge of and keep all the keys of the rooms, except only such as are used by the heads of the departments; and of them for such time as they are not so used.

Code, s. 2304; R. C., c. 103, s. 5; 1842, c. 54.

4823. Walks in and around capitol square, repair of. Whenever the walks in and immediately around the capitol square become so worn by action of the weather or other causes that in the judgment of the board of public buildings they should be repaired, relocated, or resurveyed, the board is authorized to direct the keeper of the capitol to contract for suitable material for such repairs; but the work shall be done by convict labor as far as the same can be used; and the auditor shall audit the accounts for said material and labor on the approval of the board of public buildings and the keeper of the capitol.

Code, s. 2316; 1881, c. 325, ss. 1, 2.

4824. Moore and Nash squares and other public lots. The board of aldermen of the city of Raleigh shall have power to grade, lay out in walks, plant with trees, shrubbery and flowers, and otherwise adorn Moore square and Nash square in said city, so as to make the same an ornament to the city, and to that end they shall have the general charge and management of those squares. They may improve in like manner any of the vacant lots belonging to the state within the city limits not otherwise specially appropriated. But they shall not have power to prevent the free access of well-behaved persons to such squares and lots except at unreasonable hours or for some temporary purpose specially to be designated by the board.

Code, ss. 2314, 2315; 1871-2, c. 205, ss. 1, 2.

4825. Appropriation for capitol grounds. A sum not exceeding six hundred dollars shall be set apart annually, out of any money in the treasury not otherwise appropriated, which may be used in caring for the capitol square and public grounds in the city of Raleigh.

Code, s. 2309; 1887, c. 409, s. 12; 1870-1, c. 86.

4826. Accounts for labor, how audited. No account for work or labor done on the capitol square or public grounds in the city of Raleigh, or in the senate chamber, or house of representatives, or in any room or office in the capitol, or in any building connected with the square or grounds, shall be audited or paid until the same

is sworn to before the secretary of state, to be just and true, and so certified by that officer. Nor shall the secretary of state certify the account of any laborer for work done or services rendered in any of such buildings or on any of such grounds, unless it be made to appear that such laborer or employee has been employed by the keeper of the capitol.

Code, s. 2310; 1870-1, c. 80, s. 2.

4827. Accounts for fuel, how audited. No account for fuel shall be audited or paid until the claimant make oath, as in the preceding section, that the account is just and true, and that the number of cords of wood, or tons of coal, charged for, have been delivered to the authorities authorized to receive the same at the public building.

Code, s. 2311; 1870-1, c. 80, s. 3.

CHAPTER 107.

PUBLIC DEBT.

	Sections.
I. Funded debt,	4828—4854
II. North Carolina railroad bonds,	4855—4866
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I. FUNDED DEBT.

4828. Bonds and certificates transferable; mode. All bonds or certificates of debt of the state, which now are or hereafter may be issued on behalf of the state, shall be transferable, such as are payable to bearer, by delivery, and such as are payable to the holder by name alone; may be transferred by the holder or his agent in a book to be kept for that purpose by the state treasurer, on surrendering for cancellation the outstanding bond or certificate; and in this latter case of transfer, a new bond or certificate for the same amount shall be issued.

Code, s. 3562; R. C., c. 90, s. 2; 1848, c. 37, s. 5; 1850, c. 58, s. 4; 1852, c. 11.

4829. How bonds executed; interest coupons attached; where payable; minimum amount. All bonds or certificates of debt of the state, hereafter to be issued as originals, or as substitutes for such as may be surrendered for transfer, by virtue of any act now or to be hereafter passed, shall be signed by the governor, and countersigned by the state treasurer, and sealed with the great seal of the

state, and shall be made payable to such person by name as may be the purchaser, or to bearer; and the principal shall be made payable by the state at a day named in the bond or certificate. And coupons of interest, in such form as may be prescribed by the state treasurer, shall be attached to the certificates, and the certificates and coupons attached thereto shall be made payable at such bank or place in the city of New York as the state treasurer may designate, or at the office of the state treasurer at Raleigh, if preferred by the purchaser: Provided, that if the purchaser or holder may so desire, the bond or certificate shall be payable to him alone, and not to bearer: Provided further, that no certificate shall issue for a less sum than one thousand dollars, unless the same be issued for a surrendered bond of less amount; nor shall any original bond or certificate of debt of the state be sold for a sum less than par value; nor shall any such bond or certificate, issuing in lieu of a transferred bond or certificate, be payable elsewhere than may be the original, except by the consent of the holder it may be made payable at the state treasury.

Code, s. 3563; R. C., c. 90, s. 3; 1848, c. 89, s. 22; 1852, cc. 9, 10, s. 10.

4830. Record of, with numbers, etc., kept by state treasurer.

The state treasurer shall enter in a book to be kept for that purpose, a memorandum of every bond, or certificate of debt of the state, issued or to be issued under any act whatever, together with the numbers, dates of issue, when and where payable, at what premium, and to whom the same may have been sold or issued.

Code, s. 3564; R. C., c. 90, s. 4; 1852, c. 10, s. 2.

4831. State bonds exempt from taxation. The original bonds or certificates of debt of the state, which have been issued since the first day of January, one thousand eight hundred and fifty-three, or which may hereafter be issued under the authority of any act whatever, as likewise the bonds and certificates substituted for such original bonds and certificates, shall be, they and the interest accruing thereon, exempt from taxation.

Code, s. 3565; R. C., c. 90, s. 5; 1852, c. 10, s. 4.

4832. Title of act and year of enactment recited in bonds. In every bond or certificate of debt issued by the state, and in the body thereof, shall be set forth the title of the act, with the year of its enactment, under the authority of which the same may be issued; or reference thereto shall be made by the number of the chapter, and the year of the legislative session.

Code, s. 3566; R. C., c. 90, s. 6; 1850, c. 90, s. 6.

4833. Chief clerk may make transfers and endorsements, when.

In all cases where the state treasurer may be absent from his office

by sickness or other cause, and coupon bonds may be presented for registration or transfer, the chief clerk, during such absence of the treasurer, may make such endorsements, and witness the same, and also such transfers of the said bonds as by law the treasurer himself is authorized to do.

Code, s. 3567; 1864-5, c. 24.

4834. Coupon bonds may be registered. Any holder of the bonds of the state, whether in his own right or in a fiduciary capacity, may have the same registered at the office of the state treasurer upon application and presentation of said bonds to the treasurer as hereinafter provided, and the treasurer of the state is hereby authorized to issue registered bonds in exchange for and in lieu of any coupon bonds which have been or may be lawfully issued by the state, upon the surrender to him of said coupon bonds by the holder thereof. The registered bonds so issued shall be of the denomination of ten thousand dollars, one thousand dollars or five hundred dollars as the case may be, bearing the date of the day of their issue, and of the same rate of interest as the coupon bonds for which they were issued in exchange, and from the last date of payment of interest on the coupon bonds surrendered, and maturing on the date corresponding to the bonds surrendered. The treasurer is authorized to issue coupon bonds in exchange for and in lieu of any registered bonds issued by the state, upon the surrender of the registered bonds. The coupon bonds so issued shall be of denominations of one thousand dollars or five hundred dollars, bearing date of the day of their issue, and shall bear the same rate of interest and mature on the date corresponding to the bonds surrendered.

Code, s. 3568; 1887, c. 287; 1883, c. 25.

4835. Record of registered bonds; fees for registering. It shall be the duty of the treasurer to procure and provide at the expense of the state a suitable book or books, in which, upon application and presentation of a bond or bonds as aforesaid, he shall enter in a manner to be of easy and ready reference, a description of said bond or bonds, giving the number, series, date of issue, denomination, by whom signed, and such other data as may be necessary for the ready identification thereof, together with the name of the person registering the same, the character or capacity in which said person holds said bond or bonds, and for whose benefit the same is or are registered; and the said treasurer shall enter upon each and every bond so registered as aforesaid the date of said registration, by whom registered and in what character and capacity, and shall sign said entry officially. The registry of said bonds shall be received as evidence of their existence, amount, and when due and payable, in all cases, when the original is lost or destroyed, or can not be obtained.

The registered bonds issued in exchange under the preceding section shall be in such form as the treasurer may direct, shall be signed by the governor and treasurer and sealed with the great seal of the state, and shall in all respects stand in the place of and be entitled to all exemption from taxation, and have the same terms of any kind which the coupon bonds now have.

Code, s. 3569; 1887, c. 287, s. 2; 1856, c. 16; 1883, c. 25, s. 2.

4836. Fees for issuing registered bonds in exchange for coupon bonds. The holder surrendering any bond for exchange shall pay to the state treasurer a fee of two dollars for every one thousand dollars or less of said bonds surrendered for exchange under any law to be applied by the treasurer towards the expense of providing the new bonds. All bonds surrendered for exchange shall be cancelled by the state treasurer and destroyed by him in the presence of the governor and attorney general.

1887, c. 287, ss. 4, 5.

4837. Registered bonds, how transferred. No bonds of the state shall, after being registered as provided in this chapter, be negotiable by delivery, but may nevertheless be negotiated or transferred by the person in whose name they are registered, by registration in the name of the person to whom the same are to be transferred or negotiated on surrendering for cancellation the outstanding bonds, and in such case of transfer a new bond for the same amount shall be issued. The old bond so surrendered shall be cancelled and destroyed as provided in the preceding section.

Code, s. 3570; 1887, c. 287, s. 3.

4838. What bonds are fundable. When any person holding and owning any bond or bonds of the state, issued in pursuance of any act of assembly, passed at any time before the twentieth day of May, one thousand eight hundred and sixty-one, exclusive of bonds issued for the construction of the North Carolina railroad, or in pursuance of the act of the general assembly passed at its session in one thousand eight hundred and sixty-five, it being chapter three of the laws of one thousand eight hundred and sixty-five, or in pursuance of an act passed by the general assembly at its session in one thousand eight hundred and sixty-seven, it being chapter fifty-six of the laws of one thousand eight hundred and sixty-seven, or in pursuance of an act entitled "An act to provide for the payment of the state debt contracted before the war," ratified on the tenth day of March, one thousand eight hundred and sixty-six, or in pursuance of an act entitled "An act to provide for funding the matured interest on the public debt," ratified the tenth day of August, one thousand eight hundred and sixty-eight; or any registered certificate or certificates

belonging to the board of education, issued in pursuance of an act of the general assembly of one thousand eight hundred and sixty-seven, shall surrender and deliver such bond or bonds, with the coupons attached thereto, or registered certificate or certificates, to the state treasurer, then and in that case it shall be the duty of the treasurer to issue and deliver to the person surrendering such bond or bonds, certificate or certificates, a new bond or bonds of the state, due and payable thirty years from the first day of July, one thousand eight hundred and eighty, bearing interest from date at the rate of four per cent. per annum, payable semi-annually on the first days of January and July in each successive year at the office of the state treasurer.

Code, s. 3571; 1879, c. 98, s. 1.

4839. Denomination of bonds issued under preceding section; how signed. The said bonds to be issued in place of the bonds surrendered are to be coupon bonds of the denomination of fifty dollars, one hundred dollars, five hundred dollars and one thousand dollars, and are to be numbered from one upwards, in accordance with the order of issue. They shall be signed by the governor and treasurer, and sealed with the great seal of the state; but the coupons thereon may be signed by the treasurer alone, or have a fac simile of his signature printed, engraved or lithographed thereon.

Code, s. 3572; 1879, c. 98, s. 2.

4840. Exempt from taxation. The said bonds shall be exempt from all state, county or corporate taxation or assessment, direct or indirect, general or special, whether imposed for the purposes of general revenue or otherwise. The said coupons shall be receivable in payment of any and all state taxes, and the same shall be expressed on the face of each coupon. The coupon shall bear the same number as the bonds to which they are attached, and in addition be numbered from one upwards, in accordance with the date of their maturity.

Code, s. 3573; 1879, c. 98, s. 3.

4841. Rate of exchange for fundable bonds. The said bonds shall be exchanged for the old bonds of the state, mentioned in section forty-eight hundred and thirty-eight, at the following rates:

Class 1. Bonds exchangeable at forty per cent.

For the bonds issued before the twentieth day of May, eighteen hundred and sixty-one, forty per cent. of the principal of the bond or bonds so surrendered.

Class 2. Bonds exchangeable at twenty-five per cent.

For the bonds issued since the close of the war, by authority of acts passed before the war, to aid in the construction of the Western

North Carolina railroad and the bonds issued in pursuance of the said act of assembly of eighteen hundred and sixty-five, chapter three, and act of assembly, eighteen hundred and sixty-seven, chapter fifty-six; the bonds issued October first, eighteen hundred and sixty-one, by authority of the act of eighteen hundred and sixty-one, chapter one hundred and thirty-seven, for Western (Coalfield) railroad; the bonds issued October first, eighteen hundred and sixty-one, by authority of the act of eighteen hundred and fifty-four and fifty-five, chapter two hundred and twenty-eight, section thirty-five; and resolution September the twelfth, eighteen hundred and sixty-one; and the said registered certificates of the literary fund, for the bonds issued July the first, eighteen hundred and sixty-two, by authority of act of eighteen hundred and sixty and sixty-one, chapter one hundred and forty-two, for the construction of the Wilmington, Charlotte and Rutherford railroad, twenty-five per cent. of the principal of the bonds or certificates so surrendered.

Class 3. Bonds exchangeable at fifteen per cent.; proviso.

And those issued in pursuance of the said funding acts of March tenth, eighteen hundred and sixty-six; and August twentieth, eighteen hundred and sixty-eight, fifteen per cent. of the principal of the bond or bonds so surrendered: Provided, that all bonds issued in exchange for the new bonds shall be surrendered with all the coupons attached.

Code, s. 3574; 1879, c. 98, s. 4.

4842. Form of bonds. The bonds so issued shall be in the usual form of bonds of this state, except as modified and provided by this chapter, and shall have printed on the face of the same the words:

Issued in pursuance of an act entitled "An act to compromise, commute and settle the state debt," ratified the . . . day of . . . , Anno Domini one thousand eight hundred and seventy-nine, and in large red letters, "The Consolidated Debt of the State."

Code, s. 3575; 1879, c. 98, s. 5.

4844. Excess invested in bonds. If the whole fund raised by such taxes shall not in any one year be required to pay such accruing interest, then and in that case it shall be the duty of the treasurer, with the sanction of the governor and the auditor to invest the surplus in such of the consolidated bonds or the state bonds issued in aid of the North Carolina railroad, known as construction bonds, or in the state's prison bonds, or in the bonds of the issue of 1903, as he can buy at the lowest price; and the treasurer may, with the approval of the governor and auditor, sell any portion of the bonds so purchased if necessary to enable him to pay promptly the interest on the consolidated debt of the state. And the treasurer may, with the approval of the governor and auditor, sell any of the consolidated

bonds in which he has heretofore invested such surplus and invest the proceeds in the state bonds issued in aid of the North Carolina railroad, known as construction bonds, to be held by the treasurer for the purpose of protecting the interest on the consolidated debt of the state and sold by him if necessary for that purpose.

Code, s. 3577; 1885, c. 403; 1887, c. 231; 1879, c. 98, s. 7.

4845. List of surrendered bonds kept; bonds destroyed. The treasurer shall provide a substantially bound book for the purpose, in which he shall make a correct descriptive list of all the bonds of the state surrendered, which list shall embrace the number, date and amount of each, and the purpose for which the same was issued, when this can be ascertained, and the names of the persons surrendering the same, and after such list shall be made, such surrendered bonds being ascertained to be present, shall be consumed by fire in the presence of the governor, the treasurer, the auditor, the attorney general, the secretary of state and superintendent of public instruction, who shall each certify under his hand respectively in such book that he saw such described bonds so consumed and destroyed.

Code, s. 3578; 1879, c. 98, s. 8.

4846. List kept of bonds issued. The treasurer shall provide a well-bound book, in which shall be kept an accurate account and descriptive list of all the new bonds to be issued, and such descriptive list shall embrace the date, number and amount of such bond or bonds for which the same was issued, and the name of the person to whom issued.

Code, s. 3579; 1879, c. 98, s. 9.

4847. Executors, etc., may exchange bonds. It shall be lawful for any executor, administrator, guardian, trustee, director of any corporation, and any and all other persons acting in a fiduciary capacity, holding bonds of the state, to make the exchange provided in this chapter, and they shall be absolved from all liability on account of said exchange.

Code, s. 3580; 1879, c. 98, s. 10.

4848. Extension of time to compromise state debt. So much of this chapter as authorizes the exchange of bonds and the issue of new bonds in compromise and settlement of the state debt, being section forty-eight hundred and thirty-eight, shall continue in force until the first day of January, one thousand nine hundred and seven. The governor is directed to resist the collection of all such bonds as are not funded by the time specified herein: Provided, that in issuing such bonds under this extension the public treasurer shall, be-

fore delivering any new bonds thereunder, cut off and cancel all coupons whose date of maturity is prior to the time of such delivery.

Code, s. 3581; 1893, c. 47; 1901, c. 126; 1903, c. 39; 1879, c. 98, s. 11; 1883, c. 6, ss. 1, 2.

4848a. Taxes applied to interest of certain bonds. All state taxes levied and collected from professions, trades, incomes, merchants, dealers in cigars, and three-fourths of all the taxes collected from wholesale and retail dealers in spirituous, vinous and malt liquors shall be held and applied to the payment of the interest on said bonds, and the provisions of this section shall be deemed and taken to be a material part of the consideration for which the bonds of the state shall or may be surrendered.

Code, s. 3576; 1879, c. 98, s. 6.

4849. Interest paid out of treasury, when. As a further provision for the purpose of paying the interest on the consolidated bonds, if the taxes for any one year upon the subjects of taxation hereinbefore mentioned shall be insufficient to pay said interest, then and in that case the state treasurer is authorized to apply any funds in the treasury not otherwise appropriated to that purpose.

Code, s. 3582; 1879, c. 98, s. 12.

4850. Bonds sold to pay interest; contingent bonds. In the event that the taxes collected in any one year upon the aforesaid subjects of taxation and the funds not otherwise appropriated in the treasury when added together shall be inadequate to pay said interest, then, in order to provide for the deficiency, the state treasurer is authorized to issue coupon bonds of the denomination of five hundred dollars, bearing date the first day of October or April of the year of the issue, according as one or the other of said dates shall be nearest in point of time to the date of the issue. Said bonds shall be payable forty years after date, but redeemable after ten years at the option of the state, with interest at the rate of six per centum per annum, payable semi-annually on the first days of April and October. Said bonds shall bear upon their face in red letters the words "Contingent Bonds," and shall be numbered from one upwards, in accordance with the order of their issue. They shall be signed by the governor and treasurer and sealed with the great seal of the state; but the coupons thereon may be signed by the treasurer alone, or have a fac simile of his signature printed, engraved or lithographed thereon. The said bonds and coupons shall be exempt from all state, county or corporate taxation or assessment, direct or indirect, general or special, whether imposed for the purposes of general revenue or otherwise, and they shall be lawful investments by all executors, administrators, guardians and fiduciaries generally. The coupons on said bonds shall bear the same number as the bonds

to which they are attached, and shall in addition be numbered from one upwards in accordance with the date of their maturity, and they shall be, and shall so express upon their face that they are, receivable at and after maturity in payment of all taxes, debts, demands and dues to the state of every nature and kind whatsoever.

Code, s. 3583; 1879, c. 98, s. 13.

4851. Treasurer to sell bonds, when. The state treasurer shall be authorized to sell so many of said bonds at par as shall be necessary to provide for the deficiencies aforesaid: Provided, that he shall not issue and sell in the aggregate more than six hundred of these bonds.

Code, s. 3584; 1879, c. 98, s. 14.

4852. Interest on contingent bonds, how paid. The provisions of this chapter for paying the interest on the consolidated bonds shall apply as well to the payment of the interest of the said contingent bonds.

Code, s. 3585; 1879, c. 98, s. 15.

4853. Appropriation to carry out this chapter. For the purpose of carrying out the provisions of this chapter in relation to the furnishing of proper blank bonds and coupons, and for the purpose of advertising through the public journals, or otherwise, the details of exchange, for the information of the holders of the bonds, the state treasurer is authorized, with the approval of the governor, to use any funds not otherwise appropriated in the treasury, not exceeding the sum of five thousand dollars, and the public treasurer is authorized to use so much of such sum as may be necessary for the purpose of advertising through the public journals or otherwise, the details of exchange for the information of holders of said bonds.

Code, s. 3586; 1901, c. 126, s. 3; 1879, c. 98, s. 16.

4854. Treasurer to give notice. The state treasurer is authorized to give public notice of this plan for a settlement of the state's indebtedness by advertising in such newspapers as he may select.

Code, s. 3587; 1879, c. 98, s. 17.

II. NORTH CAROLINA RAILROAD BONDS.

4855. Commission authorized to negotiate as to construction bonds. In order to renew and adjust a portion of the state debt incurred to aid in the construction of the North Carolina railroad, and obtain an extension of time of paying the same and reduce the rate of interest thereon, the governor is hereby authorized to appoint three commissioners for the purpose of negotiating with the holders of said bonds and contracting with them for a renewal of the said

debt on terms which may be advantageous to the state, and which shall be approved by the governor and state treasurer.

Code, s. 3588; 1879, c. 138.

4856. Commissioners may contract for renewal of old bonds.

The said commissioners are hereby authorized, with the advice and consent of the governor and state treasurer, to contract and agree with holders of said old construction bonds for the renewal of the same with new bonds, to be issued under the provisions of the succeeding sections upon such terms as may be agreed on by and between the said commissioners and the holders of said bonds.

Code, s. 3589; 1879, c. 138, s. 2.

4857. Commissioners to issue certificates, when. The said commissioners shall issue to each and every person delivering to them such old construction bonds in accordance with the terms of renewal which may be agreed on, a certificate which shall state the date, amount and number of the bonds and coupons delivered to them by each person, and number and amount of the new bonds which such person may be entitled to receive in renewal thereof. They shall file a copy of said certificate with the state treasurer immediately after the issue thereof.

Code, s. 3590; 1879, c. 138, s. 3.

4858. Commissioners to sell new bonds, when; how proceeds invested. The said commissioners, with the advice and consent of the governor and state treasurer, shall have power to sell said new bonds at par and invest the proceeds thereof in the purchase of the said old bonds: Provided, that no sale of such new bonds shall be made by said commissioners unless the proceeds thereof can be immediately invested in the purchase of said old bonds at a rate not greater than that at which they are being exchanged for new bonds, and not more than fifty thousand dollars of said bonds shall be sold at the same time, nor shall a future sale of bonds be made until the proceeds of previous sales have been invested in the purchase of bonds as aforesaid. Upon the sale of such bonds the commissioners shall issue a certificate to the purchaser thereof, stating the number and amount of such bonds to which such purchaser is entitled.

Code, s. 3591; 1879, c. 138, s. 4.

4859. Treasurer issues new bonds, when. Upon presentation of the certificate directed by the preceding section to the state treasurer he shall deliver to the owner thereof the number and amount of state bonds to which he may be entitled according to said certificate, and for the purpose of effecting the renewal of said bonds, the state treasurer is hereby authorized and directed to issue bonds of the state, payable forty years from the first day of April, one thousand

eight hundred and seventy-nine, bearing interest from the first day of April, one thousand eight hundred and seventy-nine, at such rate as may be agreed upon, not to exceed six per cent. per annum, payable semi-annually on the first days of April and October of each and every year until the principal shall be due.

Code, s. 3592; 1879, c. 138, s. 5.

4860. Coupon bonds; how signed; coupons receivable for taxes.

The bonds authorized by the preceding section shall be coupon bonds of the denomination of fifty, one hundred, five hundred, and one thousand dollars each, and shall be signed by the governor and state treasurer, and shall be sealed with the great seal of the state. The coupons thereon may be signed by the treasurer alone, or have a fac simile of his signature printed, engraved or lithographed thereon, and the said bonds and coupons shall in all other respects be in such form as the treasurer may direct, and shall express on their face that they are issued in renewal of said bonds; and the coupons thereon shall, after maturity, be receivable in payment of all taxes, debts, dues, licenses, fines and demands due the state, of every kind whatsoever, which shall be expressed on the face thereof.

Code, s. 3593; 1879, c. 138, s. 6.

4861. Record of bonds kept by treasurer. The state treasurer, before delivering any of said bonds, shall record in a well-bound book an accurate account and descriptive list of the said bonds, which shall embrace the date, amount and number thereof, and the name of the person to whom issued, and shall receive and cancel the certificate issued by said commissioners on which such bonds are issued by him; but no bonds shall be issued by the treasurer save in execution of the provisions of this chapter.

Code, s. 3594; 1879, c. 138, s. 7.

4862. Bonds to stand in place of old bonds. The said new bonds and coupons shall be exempt from all taxation whatsoever, state, county and municipal, general and special, and the same shall be expressed on the face thereof, and shall in all respects stand in the place of and be entitled to the same securities as are the old bonds and coupons aforesaid, and shall have the same lien on the stock of the state in the said railroad company which the said old bonds and coupons now have; and the state treasurer shall apply the dividends received by the state on its stock in said company to the payment of the coupons on said new bonds.

Code, s. 3595; 1879, c. 138, s. 8.

4863. Executors, etc., may exchange bonds, and invest funds in. It shall be lawful for any executor, administrator, guardian,

trustee, and all persons acting in a fiduciary character, holding any of the bonds hereby authorized to be exchanged, to make the exchange for the bonds herein authorized to be issued; and they shall be absolved from liability or responsibility to any person having any interest in such bonds on account of such transfer and exchange; and they shall have the power to invest any trust fund held by them in the bonds authorized to be issued, and the same shall be taken and regarded in all the courts as a good, legal, and valid investment of such trust funds by such fiduciary.

Code, s. 3596; 1879, c. 138, s. 9.

4864. Commissioners hold old bonds in trust to secure new ones. The said commissioners shall hold all the construction bonds and coupons delivered to or purchased by them in trust for the payment of the principal and interest on the said new bonds, and shall collect and receive all payments and dividends paid and made on said old bonds and coupons so held by them from any person authorized to pay the same; and said commissioners shall pay the amounts thus received to the state treasurer, and they shall be applied by him to the payment of the interest on the new bonds issued in pursuance of this chapter. The said old bonds shall not be cancelled, but shall remain in force until the governor shall direct the same to be delivered to the state treasurer for cancellation, at which time the said bonds shall be cancelled by the state treasurer in the presence of the governor; and they shall certify under their hands the number, amount and date of bonds and coupons cancelled by them, which certificate shall be safely kept in the office of the state treasurer.

Code, s. 3597; 1879, c. 138, s. 10.

4865. Commissioners to give bond. The commissioners hereby authorized to be appointed shall enter into bonds, payable to the state, in the penal sum of fifty thousand dollars, with good security, to be accepted by the state treasurer, and conditioned for the faithful performance of their duties, and shall receive as compensation for their services a commission of one-half of one per cent. on the amount of all bonds purchased by them, to be paid by the person or persons from whom the same may be purchased, and shall in no case receive any compensation from the state.

Code, s. 3598; 1879, c. 138, s. 11.

4866. Vacancies in board, how filled. In case of the death, resignation or removal of the said commissioners, or either of them, the governor shall have power to appoint other persons to fill such vacancies.

Code, s. 3599; 1879, c. 138, s. 12.

III. ISSUE OF 1903.

4867. Issued to pay state debt. For the purpose of paying off the indebtedness of the state of North Carolina arising out of appropriations heretofore made for educational, charitable and other purposes, and for the purpose of continuing the good work already commenced for the upbuilding of the state, the state treasurer is hereby authorized and directed to issue bonds of the state of North Carolina, payable ten years after the first day of January, one thousand nine hundred and three, to an amount not to exceed the sum of three hundred thousand dollars.

1903, c. 750.

4868. Form of; how issued; how sold. The bonds authorized and directed to be issued by the preceding section shall be coupon bonds of the denominations of one hundred, five hundred and one thousand dollars each, as may be determined by said state treasurer, and shall be signed by the governor and the state treasurer and sealed with the great seal of the state. The coupons thereon may be signed by the state treasurer alone, or may have a fac simile of his signature printed, engraved or lithographed thereon, and the said bonds shall in all other respects be in such form as the said state treasurer may direct; and the coupons thereon shall, after maturity, be receivable in payment of all taxes, debts, dues, licenses, fines and demands due the state of North Carolina of any kind whatsoever, which shall be expressed on the face of said bonds. The treasurer may, in his discretion, instead of coupon bonds of the denominations named, issue as many as one hundred thousand dollars of registered bonds of the denomination of fifty dollars each as part of the amount mentioned in section forty-eight hundred and sixty-seven. Before selling the coupon bonds herein authorized to be issued, the treasurer shall advertise the sale and invite sealed bids, in such manner as in his judgment may seem to be most effectual to secure the best price. He is authorized to accept bids for the entire issue, or any portion thereof, and where the conditions are equal, he shall give the preference of purchase to the citizens of North Carolina. And he is authorized to sell the registered bonds herein authorized in such manner as in his judgment will produce the best price.

1903, c. 750, s. 3.

4869. Bear interest; when payable. All of said bonds shall bear interest at a rate not exceeding four per cent. from the first day of January, one thousand nine hundred and three, until paid, which said interest shall be payable semi-annually on the first days of January and July of each and every year so long as any portion of the said bonds shall remain due and unpaid.

1903, c. 750, s. 2.

4870. Exempt from taxation; fiduciaries may invest in. Such bonds and coupons shall be exempt from all state, county or municipal taxation or assessment, direct or indirect, general or special, whether imposed for purposes of general revenue or otherwise, and the interest paid thereon shall not be subject to taxation as for income. It shall be lawful for all executors, administrators, guardians and fiduciaries generally to invest in said bonds.

1903, c. 750, ss. 4, 5.

IV. STATE'S PRISON BONDS.

4871. Issued to pay debt of. For the purpose of paying off the indebtedness of the state of North Carolina arising out of the conduct and management of the state's prison, the state treasurer is hereby authorized and directed to issue bonds of the state of North Carolina, payable ten years after the first day of January, one thousand eight hundred and ninety-nine, to the amount of one hundred and ten thousand dollars, which shall express upon their face the purpose of their issue.

1899, c. 607, s. 1.

4872. Issued to purchase farm for. For the purpose of raising a fund to purchase such of the state or penitentiary farms now leased by the state with options to purchase as the board of directors of the state's prison of North Carolina or its executive board may decide to purchase, the said state treasurer is hereby authorized and directed to issue bonds of the state of North Carolina, payable ten years after the first day of January, one thousand eight hundred and ninety-nine, to the amount of ninety-five thousand dollars, which bonds shall express upon their face the purpose of their issue: Provided, that the income arising from the cultivation of said state or penitentiary farms or any of them which may be purchased as aforesaid or so much thereof as may be necessary shall be first applied to the payment of the interest coupons as they may become due on the bonds issued under the provisions of this section.

1899, c. 607, s. 2.

4873. Bear interest at four per cent. All said bonds shall bear interest at the rate of four per centum per annum from the first day of January, one thousand eight hundred and ninety-nine, until paid, which said interest shall be payable semi-annually on the first days of January and July of each and every year so long as any portion of the principal or interest shall remain due and unpaid.

1899, c. 607, s. 3.

4874. Coupon bonds, how executed; how issued. The bonds authorized and directed to be issued by the three preceding sections

shall be coupon bonds of the denominations of one hundred, five hundred and one thousand dollars each, as may be determined by the state treasurer, and shall be signed by the governor and state treasurer, and shall be sealed with the great seal of the state. The coupons thereon may be signed by the state treasurer alone or may have a fac simile of his signature printed, engraved or lithographed thereon, and the said bonds shall in all other respects be in such form as the said state treasurer may direct; and the coupons thereon shall after maturity be receivable in payment of all taxes, debts, dues, licenses, fines and demands due the state of North Carolina of any kind whatsoever, which shall be expressed on the face of said coupons. The bonds above provided for shall be issued on the request in writing of the executive board of the state's prison of North Carolina composed of E. L. Travis, W. H. Osborn and W. C. Newland, or their successors, and not otherwise.

1899, c. 607, s. 4.

4875. Record of, kept; how payable; exempt from taxation.

The state treasurer, before delivering any of said bonds, shall record in a well-bound book an accurate account and descriptive list of the said bonds, which shall embrace the date, amount and number thereof and the name of the person to whom issued. The said bonds and coupons may be made payable to bearer at the option of the purchaser or purchasers, and they shall be exempt from all taxation whatsoever, state, county and municipal, general and special, and the same shall be expressed on the face thereof.

1899, c. 607, ss. 7, 9.

4876. Separate account of funds kept. The state treasurer shall keep a separate account of all moneys received and disbursed under the provisions of this subchapter and include the same in his regular annual reports.

1899, c. 607, s. 8.

CHAPTER 108.

PUBLIC LIBRARIES.

	Sections.
I. State,	4877—4890
II. Law,	4891—4894
III. Document,	4895—4899

I. STATE.

4877. Location. The state library shall occupy the rooms set apart for it in the supreme court building.

1885, c. 121, s. 7.

4878. Trustees; duties and powers. The governor, superintendent of public instruction and secretary of state, and their respective successors in office, are appointed trustees of the state and document libraries. The board of trustees shall make rules and regulations by which the librarian shall be governed for the protection and preservation of the books and library; and may make such distribution of the books, reports and publications belonging to the state as in the judgment of the board is advisable and proper.

Code, s. 3612; 1903, cc. 104, 133; 1871-2, c. 169, s. 3.

4879. Records procured and published. The trustees of the state library are directed to procure such of the records of this state, or copies of the same, or of other unpublished material illustrative of the history of the state down to January first, one thousand seven hundred and ninety-one as may be missing from the archives of the state, and to publish the same in such number of volumes of suitable size as they may deem proper. The trustees of the state library shall cause an index of these records, from the first volume of the colonial records down to January first, one thousand seven hundred and ninety-one, to be prepared and printed in the volume which shall embrace the year one thousand seven hundred and eighty-nine.

Code, ss. 3609, 3610; 1895, c. 464; 1901, c. 632; 1881, c. 88; 1883, pub. res., p. 619.

4880. Trustees may sell publications. The trustees of the state library are authorized to sell, on such terms as they may deem proper, any volume printed under the provisions of this chapter that may not be reserved for the use of the public libraries.

Code, s. 3611; 1881, c. 88, s. 2.

4881. Colonial records sent to certain states. The board of trustees are requested to have forwarded the colonial records of North Carolina to such states as may hereafter supply similar documents to this state.

1893, pub. res., p. 489.

4882. Governor to designate documents to be preserved; books bound and labeled. The governor shall designate such portions of the documents, journals and acts of Congress of the United States as he may deem proper to be preserved in the library; may designate which of them are to be bound, of such pamphlets, acts and journals of the general assembly, and works of periodical literature, laws of other states and documents of the general assembly that may be added to the library; and the librarian shall have them bound. And all the books belonging to the library, or which may be added thereto, shall be labeled in gilt letters with the words "State Library."

Code, s. 3614; R. C., c. 92, s. 4; 1840, c. 46, s. 6; 1842, c. 68, s. 3.

4883. Injury to books, penalty for. Any person who shall damage, deface, or mutilate any book which he may be allowed to withdraw from the library, or who shall return any book so damaged, defaced, or mutilated while in his possession, shall forfeit and pay the full amount of the damage; which amount shall be determined by the librarian, but in no case to exceed double the value of the book; and the penalties and forfeitures accruing under this section shall be sued for and recovered by the librarian in the name of the state, before any justice of the peace; and shall be added to the fund for the increase of the library.

Code, s. 3615; R. C., c. 92, s. 5; 1842, c. 68, s. 1.

4884. Committee to purchase books. The state librarian, superintendent of public instruction, together with three other persons to be selected by the trustees, shall constitute a committee to purchase books for the state library, and they are to serve without compensation in the matter of selecting and buying books.

1901, c. 503, s. 3.

4885. Librarian elected quadrennially; bond. A librarian shall be elected quadrennially by the trustees of the state library, and shall give bond with security in such sum as the said trustees may determine, payable to the state of North Carolina, conditioned for the safe-keeping of the books, and the faithful discharge of his duties, and he shall hold his place till his successor shall be appointed and qualified.

Code, s. 3604; 1895, c. 351; 1903, c. 727; 1870-1, c. 70, s. 1; 1883, c. 216, s. 1.

4886. Librarian may employ assistant. The state librarian is authorized to employ an assistant in his office.

1901, c. 503, s. 1.

4887. Librarian to receipt for laws of other states. The state librarian is directed to keep a record of the receipts of the published laws, reports, documents, etc., from other states and territories re-

ceived by exchange for like documents from this state; to receipt for the same and to distribute them to the different departments to which they belong immediately on receipt. All states and territories exchanging such documents with this state are requested to forward all documents direct to the state librarian.

1889, c. 535.

4888. Colored people, separate reading room for. The state librarian is directed to fit up and maintain a separate place for the use of the colored people who may come to the library for the purpose of reading books or periodicals.

1901, c. 503, s. 2.

4889. Appropriation. The sum of five hundred dollars is annually appropriated for the increase of the state library.

Code, s. 3608; R. C., c. 92, s. 1; 1840, c. 46.

4890. Open, when. The library shall be kept open during the day for such time as the trustees may prescribe; and from seven to nine o'clock each evening, if the necessary expense of keeping the same open be voluntarily paid by the citizens of the city of Raleigh.

Code, s. 3605; 1889, pub. res., p. 530; 1870-1, c. 70, s. 2; 1881, c. 352.

II. LAW.

4891. Location. The law library shall occupy the rooms set apart for it in the supreme court building.

1885, c. 121, s. 7.

4892. Trustees; powers and duties. The justices of the supreme court are appointed trustees of the law library, and all moneys appropriated for its increase shall be paid out under their direction and supervision. The justices aforesaid shall have charge of the law library and may, in their discretion, employ a librarian, who shall perform his duties under such rules and regulations as may be prescribed by such trustees.

Code, s. 3606; 1889, c. 482; 1883, c. 100, ss. 1, 2.

4893. Open, when. The librarian of the law library shall keep it open during such hours as the trustees may prescribe; and he shall, upon application, admit attorneys to the library at night while they are in attendance upon the supreme court.

1889, c. 482.

4894. Appropriation. The clerk of the supreme court, under the direction of the justices of that court, is authorized and directed to expend annually the amount paid in by applicants for license to

practice law, who are examined by the court, in the purchase of such books as may be necessary to keep the law library well appointed, and no other appropriation shall be allowed for that purpose. He is also allowed the sum of two hundred dollars per annum for binding old books and for other contingent expenses.

Code, s. 3613; res., 1872-3.

III. DOCUMENT.

4895. Location. The document library shall occupy the rooms in the capitol formerly occupied by the superintendent of public instruction and the state library.

1887, c. 258, s. 1.

4896. Librarian. The librarian of the state library shall be the custodian of the document library.

1887, c. 258, s. 3.

Note. For trustees, see s. 4878.

4897. Assistant librarian. The librarian is authorized to employ an assistant in the document library during the sessions of the general assembly at a cost not exceeding one dollar per day.

1891, pub. res., p. 652.

4898. Librarian to procure books. It shall be the duty of the librarian to procure two copies each of the laws and journals of the general assembly, which shall be furnished to him by the secretary of state, and to arrange them on shelves in chronological order for the use of the two houses of the general assembly respectively.

1887, c. 258, s. 2.

4899. Open, when. The librarian shall keep the document library open during the sessions of the general assembly, in order that members may have access to records, and for use of committees of either house. At all other times the doors shall be kept securely locked, but the librarian shall, upon application, admit persons who wish to examine any of the books and records therein.

1891, pub. res., p. 652.

CHAPTER 109.

PUBLIC PRINTING.

(Sections 4900—4910b.)

4900. Contract for state printing and binding. The governor and the council of state, commissioner of labor and printing and the attorney general shall contract for having all the printing and binding done for the state upon the best possible terms for the state; and the commissioner of labor and printing shall superintend the same; but they shall not pay in excess of the following prices: For every one thousand ems of plain composition thirty cents; for every one thousand ems of rule and figure work sixty cents; for every token of two hundred and forty impressions of press work twenty cents; for law-sheep binding forty-cents per volume of six hundred pages; for half-binding twenty cents per volume of six hundred pages; for every forty-eight pages over six hundred one cent per volume. The necessary freight and other expenses to be incurred by accepting any proposition for the public printing shall be taken into consideration, so that the work may be done and printed matter delivered for distribution in the city of Raleigh so as not to exceed the above prices. All other work shall be classed as job work and shall not be charged for at a higher rate than thirty cents per hour for a first-class journeyman printer, and eighty cents per thousand impressions of press work. They shall not be prevented by this section from making a contract for less prices than those above prescribed. In any contract which they may make, they may fix and determine the times for the delivery of the public and private laws, and the journals and documents of the general assembly, or any part thereof, according to their judgment and discretion. The person with whom such contract is made is designated in this chapter as the public printer.

1901, cc. 280, 401, 667; 1893, c. 161.

4901. When public printer fails to perform contract, what done. If any person who has contracted to do the public printing for the state shall fail to perform his contract according to the terms thereof, the governor, council of state, attorney general and commissioner of labor and printing shall procure the public printing to be done by other parties, and the attorney general shall institute suit in the superior court of Wake county in the name of the state to recover of the public printer and his bond any damages for failure to perform the contract.

1901, cc. 280, 401, 667; 1899, c. 724.

4902. Examination of the work; approval and auditing of accounts. The commissioner of labor and printing, aided by the assistant commissioner, shall carefully examine all printing and binding done for the state, or any department thereof, by the public printer, and shall certify that the workmanship of the printing and binding is properly executed and that the accounts rendered by the public printer for the same are accurate and just before the auditor shall issue any warrant for the payment thereof. Such accounts shall not be approved by the commissioner nor audited by the state auditor oftener than forty-eight times in a year. He shall also purchase for the use of the state the paper and stationery used for public printing.

Code, ss. 3622, 3623; 1899, c. 373, s. 5, c. 622; 1885, c. 331; 1871-2, c. 180, s. 4.

4904. Binding of laws. The public and private laws shall be bound separately. Some of the volumes shall be bound in sheep and the residue in half-binding. The number to be bound in each shall be determined by the officials named in section forty-nine hundred.

4905. Number of laws and resolutions to be printed. The governor, the council of state, the commissioner of labor and printing and the attorney general shall have power to determine the number of public and private laws and the resolutions to be printed, not to exceed, however, the number provided in this chapter. Of the public laws there shall be printed eight thousand and five hundred copies, and of the private laws one thousand and fifty copies. All of which copies shall be delivered to the secretary of state.

Code, s. 3632; 1901, c. 401, s. 2; 1897, c. 135; 1893, c. 146, s. 2.

4906. Number of supreme court reports. Of the supreme court reports there shall be printed and bound in full sheep as many copies, not less than seven hundred and fifty, as in the opinion of the attorney general and secretary of state may be sufficient to supply the demand. All such copies shall be delivered to the secretary of state.

Code, s. 3635; 1873-4, c. 34, s. 2; 1876-7, c. 164, s. 2; 1881, c. 104, s. 2, c. 107.

4907. Number of journals to be printed and bound. Of each the senate and house journals there shall be printed four hundred and fifty copies in separate volumes, bound in sheep; all of which copies shall be delivered to the secretary of state.

Code, s. 3636; 1881, c. 16; 1872-3, c. 45, s. 10.

4908. Journals, prompt preparation and filing of, by clerks. It shall be the duty of the principal clerks of the two houses of the general assembly to hasten the preparation of their journals for the public printer, so that in no case at any time shall the journal of

either house of any one day's proceedings remain unprepared for the printer by the clerk for a longer period than six days after its approval; and such clerks shall, immediately after the preparation of any and every day's proceedings of their respective houses, send the same to the office of the secretary of state.

Code, ss. 3627, 3628; 1872-3, c. 45, ss. 2, 3.

4909. Number of public documents. Of the public documents there shall be printed of each six hundred and eighty-five copies. Seventy copies shall be stitched, when necessary, and shall be delivered to the secretary of the senate as soon as printed, for the use of the senate; and one hundred and fifty copies, stitched, when necessary, shall be delivered to the clerk of the house for the use of the house. The remaining three hundred and sixty-five copies shall be bound in a volume in full sheep and delivered to the secretary of state.

Code, s. 3637; 1901, c. 88; 1881, c. 16; 1872-3, c. 45, s. 11.

Note. For number of reports to the general assembly, printed, see s. 4313.

4910. Bills and other legislative documents, printing of. The bills and all other documents ordered to be printed by either branch of the general assembly shall be printed in octavo form without a title page. But the first page shall be printed as follows: At the head of the page there shall be four rules, one double, two single, and one parallel, extending across the page. Between said rules shall be printed, first, the name of the house where the bill originated, with the year and date of the session, the name of the introducer, and the name of the printer; after leaving a space the width of two-line pica, a synopsis, or caption of the bill, or report of the committee, or whatever it may be, shall be set up with pica capitals. After such heading, the said document to follow immediately, commencing with a paragraph, allowing a space the width of small pica between the heading and commencement of the same.

Code, s. 3644; R. C., c. 93, s. 3.

4910a. Printing, forms, books and postage. The governor, secretary of state, auditor, treasurer, superintendent of public instruction, attorney general, insurance commissioner and adjutant general may have printed and prepared for their several offices such blank-books, blank forms and other necessary printing as may be suitable and proper to enable them to discharge their official duties. They shall also be allowed all necessary postage and express charges; and the auditor and treasurer shall each have two hundred copies of their respective reports printed for the use of their offices. The printing herein authorized, shall be done under contract as is provided in section forty-nine hundred.

Code, s. 3646; 1891, c. 352; 1873-4, c. 174; R. C., c. 93, s. 10.

4910b. Printing for state offices. The governor, secretary of state, auditor, treasurer, superintendent of public instruction, attorney general, corporation commission, insurance commissioner, supreme court and adjutant general, may have printed and prepared for their several offices such blank-books, blank forms and other necessary printing as may be suitable and proper to enable them to discharge their official duties; they shall also be allowed all necessary postage and express charges. The printing herein authorized shall be done by the public printer according to the rates prescribed by law; and charges for all other items shall be approved by the commissioner of labor and printing.

Code, s. 3646; R. C., c. 93, s. 10; 1873-4, c. 174.

NOTE. For duties of the secretary of state in connection with the printing and distribution of state publications, see State Officers.

For duties of the Commissioner of Labor and Printing, see chapter 89.

CHAPTER 110.

REVENUE.

[The commissioners to compile the public laws have deemed it an unnecessary expense to publish in this legislative edition of the Revised Statutes the existing revenue and machinery acts. Those enacted by the legislature of 1905 can be inserted under this chapter heading.]

CHAPTER 111.

SOLDIERS' HOME.

(Sections 4911—4916.)

4911. Association incorporated. The persons now composing and constituting the corporation, created by chapter sixty of the private laws of one thousand eight hundred and ninety-one, together with their successors shall be and remain a body politic and corporate, under the name and style of The Soldiers' Home Association, and by that name may sue and be sued, purchase, hold and sell real and personal property and have all of the powers of a charitable corporation under the law, enabling them to establish, maintain and govern a home for such deserving, needy Confederate soldiers as shall have

served in any North Carolina command during the late war, or who shall have served in the Confederate army and shall be a bona fide citizen of the state. The corporation shall have power to buy, lease or acquire real estate for the purposes of its incorporation, may solicit and receive donations in money or property, may invest its funds to constitute an endowment fund and shall have a corporate existence of sixty years. It shall also have the power to solicit and receive donations for the purpose of aiding indigent Confederate soldiers at their homes in the various counties of North Carolina, and shall have all powers necessary to this end.

1891 (Pr.), c. 60.

4912. How directors appointed; powers of officers of. The powers conferred by this chapter shall be exercised by a board of directors consisting of seven members, of whom three shall be elected by the association and four shall be appointed by the governor of the state annually, and in case of a failure to elect or appoint, the members of the board shall hold their offices until their successors shall be elected or appointed. The board of directors shall elect from their number a president, and a secretary who shall not be from their number, and the treasurer of North Carolina shall be the treasurer of the association. The board of directors shall appoint such other officers, agents or employees as it shall see fit, and shall prescribe the duties of such officers and employees. It shall establish rules and regulations for the maintenance and government of the home, and shall have entire control and management of it; it shall prescribe the rules for the admission of inmates and their discharge; it shall take whatever action may be desirable in reference to the collection and disbursement of subscriptions either to the home or to the needy veterans elsewhere in the state. The accounts of its officers and employees shall be duly audited and published.

1891 (Pr.), c. 60, s. 2.

4913. Lady managers appointed. The board of directors at their first meeting in each year shall appoint an advisory board of lady managers, consisting of one member from each congressional district, whose term of office shall be prescribed by the board. The lady managers shall assist the directors in the management of the home as they may be requested to do, shall solicit contributions for the home and generally shall use all the powers given to and perform all the duties required of them by the board of directors, who are hereby empowered to prescribe such duties and confer such powers.

1891 (Pr.), c. 60, s. 3.

4914. Site of home. The tract of land lying east of and near the corporate limits of the city of Raleigh, known as Camp Russell, and

formerly known as "Pettigrew Hospital," the property of the state, shall be and the same is hereby given to the association, to be held and used by them for the purposes of a soldier's home, and for no other purpose, and when said land shall cease to be used for the benefit of the Confederate veterans the same shall revert and belong to the state. But if the board of directors shall deem it advisable to establish the home elsewhere, they shall have the power, by and with the consent of the council of state of North Carolina, to sell the said tract and reinvest in some other lot or tract of land, the title to which shall be taken in the name of the state, and which shall be held under the trust mentioned above.

1891 (Pr.), c. 60, s. 4.

4915. Record of inmates kept. The directors shall cause to be kept a minute book of the home, in which full entries shall be kept concerning memorable incidents in the lives of its inmates. They shall also take steps to form a museum of Confederate relics and to perpetuate such historical records of the Confederate soldiers of North Carolina as they shall find it practicable to do.

1891 (Pr.), c. 60, s. 6.

4916. Appropriation for. To aid in the maintenance of the soldiers' home and the support of its inmates, the sum of eight thousand and five hundred dollars per annum is appropriated, which shall be paid quarterly out of any money in the treasury of North Carolina not otherwise appropriated. This appropriation shall be paid to the treasurer of the soldiers' home association, to be by him disbursed under the order of its board of directors.

1895, c. 290.

CHAPTER 112.

STATE BOUNDARIES.

(Sections 4917—4921.)

4917. Governor may appoint commissioners to re-run. The governor of North Carolina is hereby authorized to appoint two competent commissioners and a surveyor and a sufficient number of chainbearers, on the part of the state of North Carolina, to act with the commissioners or surveyors appointed or to be appointed by any of the contiguous states of Virginia, Tennessee, South Carolina and Georgia, to re-run and re-mark, by some permanent monu-

ments at convenient intervals, not greater than five miles, the boundary lines between this state and any of the said states.

Code, s. 2289; 1889, c. 475, s. 1; 1881, c. 347, s. 1.

4918. Expense, when and how paid. When the line has been re-run and re-marked as above provided between this state and any of the contiguous states or such portion of said lines as shall be mutually agreed by the commissioners, the governor is authorized to issue his warrant upon the state treasurer for such portion of the expenses as shall fall to the share of this state.

Code, s. 2290; 1889, c. 475, s. 2; 1881, c. 347, s. 2.

4919. When and who may appoint arbitrators. If any disagreement shall arise between the commissioners the governor of this state is hereby authorized to appoint arbitrators to act with similar officers to be appointed by the other states in the settlement of the exact boundary.

Code, s. 2291; 1889, c. 475, s. 3; 1881, c. 347, s. 3.

4920. When report made to general assembly. In case of any serious disagreement and inability on the part of the said arbitrators to agree upon said boundary, such fact shall be reported by the governor to the next general assembly for their action.

Code, s. 2292; 1889, c. 475, s. 4; 1881, c. 347, s. 4.

4921. Survey, how approved to be effective. When the commissioners shall have completed the survey, or so much as shall be necessary, they shall report the same to the governor, who shall lay the same before the council of state; and when the governor and the council of state shall have approved the same the governor shall issue his proclamation, declaring said lines to be the true boundary line or lines, and the same shall be the true boundary line or lines between this and the states above referred to.

Code, s. 2293; 1889, c. 475, s. 5; 1881, c. 347, s. 5.

CHAPTER 113.

STATE FLAG, ETC.

(Sections 4922—4924.)

4922. Motto. The words "esse quam videri" are hereby adopted as the motto of this state, and as such shall be engraved on the great seal of North Carolina and likewise at the foot of the coat-of-arms

of the state as a part thereof. On the coat-of-arms, in addition to the motto, at the bottom, there shall be inscribed at the top the words, "May 20th, 1775."

1893, c. 145.

Note. For great seal and coat-of-arms, see State Officers, subchapter Governor.

4923. State flag. The flag of North Carolina shall consist of a blue union, containing in the centre thereof a white star with the letter "N" in gilt on the left and the letter "C" in gilt on the right of said star, the circle containing the same to be one-third the width of said union. The fly of the flag shall consist of two equally proportioned bars, the upper bar to be red, the lower bar to be white; the length of the bars horizontally shall be equal to the perpendicular length of the union, and the total length of the flag shall be one-third more than its width. Above the star in the centre of the union there shall be a gilt scroll in semi-circular form, containing in black letters this inscription: "May 20th, 1775," and below the star there shall be a similar scroll containing in black letters the inscription: "April 12th, 1776."

1885, c. 291.

4924. Guilford battle-ground. Whereas, the legislature of North Carolina, at its session of one thousand eight hundred and eighty-seven, ratified an act entitled "An act to incorporate the Guilford Battle-ground Company," for the laudable and patriotic purpose of redeeming the grounds on which that memorable battle for the cause of liberty and independence was fought between the American forces and the English invaders, March the fifteenth, one thousand seven hundred and eighty-one; and whereas, the said company, by their individual exertions, energies and personal liberality, have raised about three thousand dollars, with which they have purchased seventy acres of land embracing the battlefield, and have erected thereon a keeper's lodge and a handsome cottage, and marked the field by a pyramid of granite blocks, beautified and adorned two fine springs on the property, erected two monuments in memory of the fallen heroes of this battle, and cleared and ornamented the grounds by a considerable expenditure of money, and collected a most valuable and interesting museum of relics from the battlefield, and have collected and published many new and interesting historical facts vindicating the good name of the North Carolina militia, who have been traduced by partisan writers of history; and whereas, the Guilford Battle-ground Company has expended every dollar of its money for these patriotic purposes, and is unable to raise any more funds to keep the grounds in order hereafter; and whereas, the state of North Carolina is in full sympathy with the worthy objects which said company has in view, and has heretofore shown her interest in

preserving the memory of the heroic dead, who gave birth to this mighty nation, by contributing liberally to the erection of a monument at Kings Mountain, where North Carolina organized and achieved a splendid victory over our oppressors, and by erecting a monument to the memory of Governor Caswell, the heroic executive of our state in its struggle for independence: Therefore, the sum of five hundred dollars, annually, is hereby appropriated, to be paid by the treasurer to the president of the Guilford Battle-ground Company, for the purpose of preserving, improving and protecting the battlefield of Guilford Court House.

1889, c. 549; 1893, cc. 72, 522.

CHAPTER 114.

STATE OFFICERS.

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I. CLASSIFICATION.

4925. Public state officials classified. The public officers of the state are legislative, executive, and judicial. But this classification shall not be construed as defining the legal powers of either class.

Code, s. 3317; 1868-9, c. 270, ss. 1, 2.

4926. Legislative officers. The legislative officers are:

1. Fifty senators;
2. One hundred and twenty members of the house of representatives;
3. A speaker of the house of representatives.
4. A clerk and assistants in each house;
5. A doorkeeper and assistants in each house;
6. As many subordinates in each house as may be deemed necessary.

Code, s. 3318; 1868-9, c. 270, s. 3.

4927. Executive officers, civil and military. Executive officers are either:

1. Civil.

2. Military.

Civil executive officers are:

1. General, or for the whole state.
2. Special, or for special duties in different parts of the state.
3. Local, or for a particular part of the state.

The general civil executive officers of this state are as follows:

1. A governor.
2. A lieutenant governor.
3. Private secretary for the governor.
4. A secretary of state.
5. An auditor.
6. A treasurer.
7. An attorney general.
8. A superintendent of public instruction.
9. The members of the governor's council.
10. A commissioner of agriculture.
11. A commissioner of labor and printing.
12. An insurance commissioner.

Code, s. 3319; 1868-9, c. 270, ss. 24, 25, 26; 1899, c. 373, c. 54, ss. 3, 4; 1901, c. 479, s. 4.

II. EXECUTIVE OFFICERS.

4930. Election; commencement and duration of term of office; induction into office. The executive department shall consist of a governor, a lieutenant governor, a secretary of state, an auditor, a treasurer, a superintendent of public instruction, and an attorney general, who shall be elected for a term of four years by the qualified electors of the state, at the same time and places and in the same manner as members of the general assembly are elected. Their term of office shall commence on the first day of January next after their election and continue until their successors are elected and qualified. The return of every election for officers of the executive department shall be sealed up and transmitted to the seat of government by the returning officers, directed to the speaker of the house of representatives, who shall open and publish the same in the presence of a majority of the members of both houses of the general assembly. The persons having the highest number of votes respectively shall be declared duly elected; but if two or more be equal and highest in votes for the same office, then one of them shall be chosen by joint ballot of both houses of the general assembly. Contested elections shall be determined by a joint ballot of both houses of the general assembly in such manner as shall be prescribed by law. On the first Tuesday, after the convening of the general assembly, following the election of any or all state officers, of the executive department, and of the commissioner of agriculture and the

commissioner of labor and printing, there shall be a joint session of the house of representatives and senate in the hall of the house of representatives, at eleven o'clock in the forenoon, when and where the speaker of the house of representatives shall proceed, in compliance with the provisions of the constitution above set forth, to open and publish the vote for governor and other officers of the executive department and for the commissioner of agriculture and the commissioner of labor and printing cast at the last preceding election, and as soon as the result of the election shall be ascertained and published, as provided in this section, the person so ascertained and published to be elected governor at such election shall, in the presence of the joint session of the two houses of the general assembly, held as herein provided, take the oath of office prescribed by law and be immediately inducted into the office of governor. Should the governor-elect not be present at such joint session, then he may, as soon thereafter as he may deem proper, take the oath of office before some justice of the supreme or judge of the superior court and be inducted into office. As soon as the result of such election as to other officers of the executive department named in article three, section one, of the constitution, and as to the commissioner of agriculture and the commissioner of labor and printing, shall be ascertained and published as provided herein, the officers elected to such offices shall, as soon as may be, take the oath of office prescribed by law for such officers and be inducted into the offices to which they have been elected.

Const., Art. III, ss. 1, 3; 1897, c. 1, ss. 1, 2, 3.

III. THE GOVERNOR.

4931. Must reside in Raleigh; dwelling, fuel, lights and water supplied. The governor shall reside in the city of Raleigh during his continuance in office. A convenient and commodious furnished dwelling-house, supplied with necessary lights, fuel and water, shall be provided for his accommodation.

Code, ss. 3325, 3326; 1868-9, c. 270, ss. 32, 33; 1885, c. 244.

4932. His powers and duties. In addition to those prescribed by the constitution, the governor has the powers and duties prescribed in this and the following sections:

1. He is to supervise the official conduct of all executive and ministerial officers.

2. He is to see that all offices are filled, and the duties thereof performed, or in default thereof apply such remedy as the law allows, and if the remedy is imperfect acquaint the general assembly therewith.

3. He is to make the appointments and supply the vacancies not otherwise provided for in all departments.

4. He is the sole official organ between the government of this state and other states, or the government of the United States.

5. He has the custody of the great seal of the state.

6. If he be apprised by the affidavits of two responsible citizens of the state that there is imminent danger that the statute of this state forbidding prize-fighting is about to be violated, he shall use, as far as necessary, the civil and military power of the state to prevent it, and to have the offenders arrested and bound to keep the peace.

Code, s. 3320; 1868-9, c. 270, s. 27; 1870-1, c. 111; 1883, c. 71; 1895, c. 28, s. 5.

4933. May convene council of state. The governor may convene his council for consultation, whenever he may deem it proper.

Code, s. 3335; 1868-9, c. 270, s. 40.

4934. Private secretary to; official correspondence preserved; books produced before general assembly. The governor shall appoint a private secretary, who shall enter in books kept for that purpose all such letters, written by and to the governor, as are official and important, and such other letters as the governor shall think necessary. Such books shall be deposited in the office of the executive by the private secretary, and there carefully preserved, and the governor shall produce the same before the general assembly whenever requested.

Code, ss. 3326, 3327; 1868-9, c. 270, ss. 33, 34.

4935. Records kept; certain original applications preserved. The governor shall cause to be kept the following records:

1. A register of all applications for pardon, or for commutation of any sentence, with a list of the official signatures and recommendations in favor of such application.

2. An account of all his official expenses and disbursements, including the incidental expenses of his department, and the rewards offered by him for the apprehension of criminals, which shall be paid upon the warrant of the auditor.

These records and the originals of all applications, petitions and recommendations, and reports therein mentioned, shall be preserved in the office of the governor, but when applications for offices are refused he may, in his discretion, return the papers referring to the application.

Code, ss. 3322, 3323; 1870-1, c. 111; 1868-9, c. 270, ss. 29, 30.

4936. May employ counsel. Whenever any suit or legal proceeding is pending against the state, or which may result in any claim against the state, or affect the title of this state to any property, he may direct the attorney general to appear on behalf of the

state, and may employ such additional counsel as he may judge expedient. In case the attorney general shall state to the governor that it is impracticable for him to render legal services to any state institution, including the state's prison, the governor may, if he deem it necessary, employ such counsel as in his judgment should be employed; and no institution supported in whole or in part by the state shall employ any counsel except by the consent and approval of the governor. In every case, civil or criminal, in any court in the state, or in any other state or territory, or in any United States court, in which the state of North Carolina is interested, the governor may employ such counsel as he may deem proper or necessary to represent the interest of the state. In all cases in which the governor is authorized to employ counsel he may direct the auditor to draw his warrant upon the treasurer to compensate such counsel.

Code, ss. 3320, 3324; 1870-1, c. 111; 1883, c. 71; 1868-9, c. 270, s. 6; 1873-4, c. 160, s. 2; 1901, c. 744.

4937. Appoints a day of thanksgiving. The governor is directed to set apart a day in every year, and by proclamation give notice thereof, as a day of solemn and public thanksgiving to Almighty God for past blessings and of supplication for His continued kindness and care over us as a state and a nation.

Code, s. 3334; 1868-9, c. 270, s. 39.

4938. Applications for pardon; regulations as to. Every application for pardon must be made to the governor in writing, signed by the party convicted, or by some person in his behalf. And every such application shall contain the grounds and reasons upon which the executive pardon is asked, and shall be in every case accompanied by a certified copy of the indictment, and the verdict and judgment of the court thereon.

Code, s. 3336; 1869-70, c. 171; 1870-1, c. 61.

4939. Puts seal to papers a second time, when. In all cases where any person may find it necessary to have the great seal of the state put again to any public paper, other than a grant for lands, he may prefer his petition to the governor and council, who shall, if they deem the same proper, direct the seal to be put thereto.

Code, s. 3333; 1868-9, c. 270, s. 38.

4940. Keeper of great seal of state; design. The governor shall procure for the state a seal, which shall be called the great seal of the state of North Carolina, and shall be two and one-quarter inches in diameter, and its design shall be a representation of the figures of Liberty and Plenty, looking toward each other, but not more than half fronting each other and otherwise disposed, as follows: Liberty,

the first figure, standing, her pole with cap on it in her left hand and a scroll with the word "Constitution" inscribed thereon in her right hand. Plenty, the second figure, sitting down, her right arm half extended towards Liberty, three heads of wheat in her right hand, and in her left, the small end of her horn, the mouth of which is resting at her feet, and the contents of the horn rolling out; there shall also be inserted thereon the words "esse quam videri." It shall be the duty of the governor to file in the office of secretary of state an impression of the great seal, certified to under his hand and attested by the secretary of state, which impression so certified the secretary of state shall carefully preserve among the records of his office.

Code, ss. 3328, 3329; 1868-9, c. 270, s. 35; 1883, c. 392; 1893, c. 145.

4941. Procures seals for each department and courts of record. The governor shall also procure a seal for each department of the state government to be used for attesting and authenticating grants, proclamations, commissions and other public acts, in such manner as may be directed by law and the usage established in the public offices; also a seal for every court of record in the state, for the purpose of authenticating the papers and records of such court. All such seals shall be delivered to the proper officers, who shall give a receipt therefor and be accountable for their safe-keeping.

Code, ss. 3328, 3332; 1868-9, c. 270, ss. 35, 37; 1883, c. 71.

4942. Seal of department of state. The seal of the department of state shall be two inches in diameter and shall be of the same design as the great seal of the state, with the words "State of North Carolina, Department of State," surrounding the figures.

Code, s. 3330; 1883, c. 238.

4943. Provides new seals when necessary. Whenever the great seal of the state, the seal of any department or any seal of a court of record shall be lost, or so worn or defaced as to render it unfit for use, the governor shall provide a new one, and when new seals are provided, the former ones shall not be used.

Code, s. 3331; 1868-9, c. 270, s. 36.

4944. Seals; how paid for. The treasurer shall pay the expense of procuring all seals provided for in this chapter upon the warrant of the auditor.

Code, s. 3332; 1868-9, c. 270, s. 37; 1883, c. 71.

IV. SECRETARY OF STATE.

4945. Office and office hours. The secretary of state shall attend at his office, in the city of Raleigh, between the hours of ten

o'clock a. m., and three o'clock p. m., on every day of the year, Sundays and legal holidays excepted.

Code, s. 3339; 1868-9, c. 270, s. 44; 1870-1, c. 111.

4946. Duties of. It is the duty of the secretary of state:

1. To attend at every session of the legislature for the purpose of receiving bills which shall have become laws, and to perform such other duties as may then be devolved upon him by resolution of the two houses, or either of them.

2. To attend the governor, whenever required by him, for the purpose of receiving documents which have passed the great seal.

3. To receive and keep all conveyances and mortgages belonging to the state.

4. To distribute annually the statutes, the legislative journals and documents, and the reports of the supreme court.

5. To distribute the acts of congress received at his office in the manner prescribed for the statutes of the state.

6. To keep a receipt book, in which he shall take from every person to whom a grant shall be delivered a receipt for the same; but he may inclose grants by mail in a registered letter at the expense of the grantee, unless otherwise directed, first entering the same upon the receipt book.

Code, s. 3340; 1868-9, c. 270, s. 45; 1881, c. 63.

4947. Purchases stationery and fuel. The secretary of state shall purchase suitable stationery for the general assembly, the supreme court and state library upon the best terms the same can be procured. And he shall contract with the lowest bidder, under sealed proposals, for the necessary fuel for the general assembly, the public offices and the governor's dwelling.

Code, s. 3341; R. C., c. 104, s. 6; 1842, cc. 48, 68; 1873-4, c. 129.

4949. Custodian of statutes, records, deeds, etc. The secretary of state is charged with the custody of all statutes and joint resolutions of the legislature, all documents which pass under the great seal, and of all the books, records, deeds, parchments, maps and papers now deposited in his office, or which may hereafter be there deposited pursuant to law, and he shall from time to time make all necessary provisions for their arrangement and preservation.

Code, s. 3337; R. C., c. 104, s. 105; 1868-9, c. 270, s. 41; 1873-4, c. 129.

4950. Binding original statutes, resolutions and documents. The original statutes and joint resolutions passed at each session of the general assembly, the secretary of state shall immediately thereafter cause to be bound in volumes of convenient size. Each such volume shall be lettered on the back with its title and the date of its session.

Code, s. 3343; 1866-7, c. 71; 1868-9, c. 270, s. 46.

4953. Public and private laws distinguished. The secretary of state shall determine which are public and which are private laws and resolutions, and it shall be his duty at the time of making the marginal notes to mark on the upper right hand corner of each act and resolution the word "public" or "private," and bills thus marked shall not be mixed by the printer in the volume or volumes printed.

Code, s. 3631; 1872-3, c. 45, ss. 6, 7.

Note. For other duties of the secretary of state in regard to publishing laws, see ss. 4324, 4327.

4954. Supplies department of general government and libraries with laws. The secretary of state shall supply and transmit to the different departments of the general government and the New York Historical Society copies of the acts, both private and public, and the public documents and journals of the general assembly, and with the reports of the supreme court of this state.

Code, ss. 3601, 3603, 3344; 1885, c. 382; R. C., c. 91, s. 2; 1868-9, c. 270, s. 48.

4955. Transmits copies of statutes and reports to other states. The secretary of state, as soon as published, shall transmit, at the expense of this state, to the executive of every state and territory in the Union, one copy of the statutes of each year, and of the reports of the supreme court, and request a similar transmission to be made to him of the statutes and reports of the higher courts of the several states and territories. When the statutes of any state or territory are received, he shall deposit one copy in the executive library, but in case only one copy is received it shall be deposited in the supreme court library.

Code, ss. 3321, 3344; 1868-9, c. 270, ss. 28, 48.

4956. Furnishes copies of laws, etc., to certain institutions of learning. The secretary of state, upon application made by any chartered institution of learning in this state, for which provision is not elsewhere made in this subchapter, having a library of not less than five thousand volumes, shall furnish and transmit to each of such institutions, to be kept in its library, a copy of all future current supreme court reports, public and private acts of the general assembly and journals of both houses and public documents, whenever the same shall be ready for distribution. He shall also furnish to each of such institutions, if he have them on hand, or when reprinted or otherwise obtained, one volume each of such of the supreme court reports as have not been heretofore furnished.

Code, s. 3619; 1881, c. 277; 1889, c. 249.

4957. Distributes public and private laws; how. The secretary of state shall distribute copies of the public and private laws, as follows: To the governor, lieutenant governor, treasurer, secretary of

state, auditor, superintendent of public instruction, attorney general, commissioner of agriculture, commissioner of labor and printing, insurance commissioner, superintendents of the several state hospitals for the insane, and of the several institutions for the deaf, dumb and the blind, and of the state's prison, and to the North Carolina college of agriculture and mechanic arts, and to the several justices of the supreme court, judges of the superior courts and the judges of the United States courts, the several solicitors and United States district attorneys, the clerks of the superior and federal courts, the sheriffs of the several counties, the several registers of deeds, members and clerks of the general assembly, and county commissioners, one copy each; to the state library, two copies; to the library of the university, three copies; to the supreme court library, eleven copies; to the library of the supreme court of the United States, one copy; to the several states and territories of the Union, including the District of Columbia, and to the Dominion of Canada, to the provinces of Canada, and Australia and to New Zealand, one copy each, and two copies to be deposited in the offices of each department of the state government; to the several justices of the peace, one copy of the public laws only.

Code, s. 3632; 1903, c. 801; 1901, c. 401, s. 2; 1901, c. 88; 1897, c. 135; 1893, c. 146, s. 2; 1891, c. 471; 1885, c. 82; 1881, c. 107; 1879, c. 271; 1872-3, c. 45, ss. 7, 8; 1870-1, c. 111, s. 2; R. C., c. 93, ss. 8, 19.

4958. Distributes journals, how. The senate and house journals shall be distributed by the secretary of state, as follows: One each to the governor, lieutenant governor, secretary of state, auditor, treasurer, attorney general, superintendent of public instruction, commissioner of agriculture, commissioner of labor and printing, insurance commissioner, the North Carolina college of agriculture and mechanic arts; each senator and representative, principal, assistant, engrossing clerks, the several registers of deeds and clerks of the superior court; to the state library, twenty copies; to the library of the university, three copies.

Code, s. 3636; 1901, c. 88; 1903, c. 5; 1881, c. 16; 1872-3, c. 45, s. 10.

4959. Distributes public documents, how. Of the public documents, seventy copies shall be delivered by the secretary of state to the secretary of the senate, as soon as printed, for the use of the senate, and one hundred and fifty to the clerk of the house for the use of the house, and the residue, three hundred and sixty-five copies, shall be distributed as follows: To the governor, lieutenant governor, treasurer, attorney general, secretary of state, auditor, superintendent of public instruction, commissioner of agriculture, commissioner of labor and printing, insurance commissioner, each clerk of the superior court, the superintendent of the several state hospitals for the

insane, of the several institutions for the deaf dumb and the blind, and of the state's prison, to the North Carolina college of agriculture and mechanic arts, each representative and senator, and each judge of the supreme and superior courts, one copy each; to the state library, ten copies; to the senate library, ten copies; to the house library, twelve copies; to the supreme court library, five copies; to the library of the university, three copies.

Code, s. 3637; 1901, c. 88; 1881, c. 16; 1872-3, c. 45, s. 11.

4960. Prompt distribution of laws, reports, journals and documents. The secretary of state, immediately upon the receipt of the first bound copies of the laws and reports, shall transmit the same by mail, one each to the justices of the supreme court, and the judges, solicitors and clerks of the superior court, and may then, in his discretion, expose for sale a limited number of each. The residue of the laws, reports, documents and journals, as soon as they are delivered to the secretary of state, shall be transmitted and distributed by him according to this chapter, by express or otherwise, as he may deem best.

Code, ss. 3640, 3641; 1872-3, c. 45, ss. 14, 15.

4961. Supreme court reports, distribution of. The supreme court reports shall be distributed by the secretary of state as follows: To the governor, lieutenant governor, attorney general, treasurer, secretary of state, auditor, superintendent of public instruction, commissioner of labor and printing, commissioner of agriculture, and insurance commissioner, the justices of the supreme court and judges of the superior courts, the judges of the federal courts residing in the state, the clerks of the supreme and superior courts, and of the United States courts for North Carolina, one copy each; to the supreme court library, twelve copies; to the state library, two copies; to the library of the supreme court of the United States, one copy; to the library of the university and to the library of Wake Forest and Trinity colleges, three copies; to each state and territory in the Union, including the District of Columbia, one copy; and to the dominion of Canada, to the provinces of Canada, and Australia, and to New Zealand, one copy each, and one copy each to such courts in foreign states as the supreme court may direct.

Code, s. 3635; 1899, cc. 37, 667; 1891, c. 471; 1903, c. 689; 1885, c. 82; 1881, c. 107; 1881, c. 104, s. 2; 1876-7, c. 164, s. 2; 1873-4, c. 34, s. 2.

4962. Transmission of laws, etc., for use of counties and members of the general assembly. The statutes, journals and documents for the use of each county, and for members of the general assembly and other officers therein shall be transmitted to the clerk of the court of each county in such manner as the secretary of state

may think best; the statutes to be transmitted as soon as practicable after adjournment of the general assembly.

Code, s. 3344; 1868-9, c. 270, s. 48.

4963. Expenses of transmitting publications. The transmission of all publications directed by this subchapter to be distributed shall be at the expense of the state.

Code, s. 3344; 1868-9, c. 270, s. 48.

4964. Sale of laws, journals and documents. Such laws, journals and documents as may be printed under the provisions of this chapter in excess of the number directed to be distributed, the secretary of state may sell at such price as he deems reasonable, not exceeding one dollar and fifty cents for full bound copies of the public laws; and he shall pay the proceeds into the treasury. In his annual report he shall give an account of the number sold and the number on hand. He may sell such number of copies of the journals and public documents as the general assembly may by joint resolution direct at a price not exceeding ten per centum in advance of the cost.

Code, ss. 3642, 3344; 1881, c. 104; 1872-3, c. 45, s. 16; 1868-9, c. 270, s. 48.

4965. Supreme court reports, reprints of. The secretary of state is authorized and directed to have such of the reports of the supreme court of the state of North Carolina as he has not on hand for sale republished and numbered consecutively, retaining the present numbers and names of the reporters, and by means of star pages in the margin, retaining the original number of pages. Not more than five volumes of such reports shall be republished in one year. The editions shall be not less than five hundred copies of each volume. The secretary of state is authorized and directed to contract for the printing and binding of such supreme court reports on such terms as he may deem satisfactory and reasonable, and the state treasurer is hereby authorized and directed to pay over to the secretary of state, annually, all moneys arising from the sales of the supreme court reports, or so much thereof as is necessary to be expended in carrying out the provisions of this section. Such republication shall thus continue until the state shall have for sale all of such reports, and thereafter when the editions of any number or volume of the supreme court reports shall be exhausted, it shall be the duty of the secretary of state to have the same reprinted under the provisions of this section.

Code, s. 3634; 1885, c. 309; 1889, c. 473, ss. 1, 2, 3, 4, 6.

4966. Supreme court reports, sale of. The secretary of state shall sell any and all of the supreme court reports, both the current reports and the reprints, at one dollar and fifty cents per volume, but

he may allow to regular licensed booksellers in this state such discount as to him may seem reasonable and just. For his services in making such sales he shall receive a commission of five per centum upon his receipts, which commission he may deduct when he settles with the state treasurer, to whom he shall pay over, monthly, the moneys arising from such sales.

Code, s. 3635; 1889, c. 473, s. 5; 1899, c. 37.

4967. Accounts and expenses, how paid. The accounts of the secretary of state for the expenditures provided for in this subchapter, and all other expenses which he may incur, the payment whereof is not otherwise provided for, shall be passed on by the governor and council of state, and if allowed, shall be paid by the treasurer, on a warrant which the auditor shall draw.

Code, s. 3342; R. C., c. 104, s. 7; 1842, c. 48, s. 1; 1842, c. 68, s. 3; 1873-4, c. 129.

V. AUDITOR.

4968. Office and office hours. The auditor shall keep his office at the city of Raleigh, and shall attend thereat between the hours of ten o'clock a. m. and three o'clock p. m., Sundays and legal holidays excepted.

Code, s. 3353; 1868-9, c. 270, ss. 69, 70.

4969. Duties of. It is the duty of the auditor:

1. To superintend the fiscal concerns of the state.
2. To report to the general assembly, annually, a complete statement of the funds of the state, of its revenues and of the public expenditures during the preceding fiscal year, and, as far as practicable, an account of the same down to the termination of the current calendar year, together with a detailed estimate of the expenditures to be defrayed from the treasury for the ensuing fiscal year, specifying therein each object of expenditure and distinguishing between such as are provided for by permanent or temporary appropriations, and such as must be provided for by a new statute, and suggesting the means from which such expenditures are to be defrayed.
3. To suggest plans for the improvement and management of the public revenue.
4. To keep and state all accounts in which the state is interested.
5. To examine and settle the accounts of all persons indebted to the state, and to certify the amount of balance to the treasurer.
6. To direct and superintend the collection of all moneys due to the state.
7. To examine and liquidate the claims of all persons against the state, in cases where there is sufficient provision of law for the payment thereof; and where there is no sufficient provision, to examine

the claim and report the fact, with his opinion thereon, to the general assembly.

8. To require all persons who have received any moneys belonging to the state, and have not accounted therefor, to settle their accounts.

9. To have the exclusive power and authority to issue all warrants for the payment of money upon the state treasurer; and it shall be the auditor's duty, before issuing the same, to examine the laws authorizing the payment thereof, and satisfy himself of the correctness of the accounts of persons applying for warrants; and to this end he shall have the power to administer oaths, and he shall also file in his office the voucher upon which the warrant is drawn and cite the law upon said warrant.

10. To procure from the books of the banks in which the treasurer makes his deposits, monthly statements of the moneys received and paid on account of the treasurer.

11. To keep an account between the state and the treasurer, and therein charge the treasurer with the balance in the treasury when he came into office, and with all moneys received by him, and credit him with all warrants drawn or paid by him.

12. To examine carefully on the first Tuesday of every month, or oftener if he deems it necessary, the accounts of the debts and credits in the bank book kept by the treasurer, and if he discovers any irregularity or deficiency therein, unless the same be rectified or explained to his satisfaction, to report the same forthwith, in writing, to the governor.

13. To require, from time to time, all persons who have received moneys or securities, or have had the disposition or management of any property of the state, of which an account is kept in his office, to render statements thereof to him; and all such persons shall render such statements at such time and in such form as he shall require.

14. To require any person presenting an account for settlement to be sworn before him and to answer orally as to any facts relating to its correctness.

Code, s. 3350; 1868-9, c. 270, ss. 63, 64, 65; 1883, c. 71.

4970. Money paid into treasury by mistake, duties as to.

Whenever the governor and council of state are satisfied that moneys have been paid into the treasury through mistake, they may direct the auditor to draw his warrant therefor on the treasurer, in favor of the person who made such payment; but this provision shall not extend to payments on account of taxes nor to payments on bonds and mortgages.

Code, s. 3351; 1868-9, c. 270, s. 66.

4971. Accounts to be examined. His accounts shall be closed on the thirtieth day of November of each year, and shall be examined

at the same time and by the same officials as provided for examination of the treasurer's accounts.

Code, s. 3360; 1885, c. 334.

4972. Surplus proceeds of sale of property mortgaged to the state, duties as to. Whenever any real property mortgaged to the state, or bought in for the benefit of the state, of which a certificate shall have been given to a former purchaser, is sold by the attorney general on a foreclosure by notice, or under a judgment, for a greater sum than the amount due to the state, with costs and expenses, the surplus money received into the treasury, after a conveyance has been executed to the purchaser, shall be paid to the person legally entitled to such real property at the time of the foreclosure on the forfeiture of the original contract. The auditor shall not draw his warrant for such surplus money, but upon satisfactory proof, by affidavit or otherwise, of the legal rights of such person.

Code, s. 3352; 1868-9, c. 270, s. 68.

VI. TREASURER.

4973. Office and office hours. The treasurer shall keep his office at the city of Raleigh, and shall attend there between the hours of ten o'clock a. m. and 3 o'clock p. m., Sundays and legal holidays excepted. He shall be allowed such office room as may be necessary.

Code, s. 3362; 1868-9, c. 270, ss. 80, 81.

4974. Duties to receive and disburse moneys; reports. It is the duty of the treasurer to receive all moneys which shall from time to time be paid into the treasury of this state; to pay all warrants legally drawn on the treasurer by the auditor; and no moneys shall be paid out of the treasury except on the warrant of the auditor; to report to the governor annually and to the general assembly at its biennial session the exact balance in the treasury to the credit of the state, with a summary of the receipts and payments of the treasury during the preceding fiscal year, and so far as practicable an account of the same down to the termination of the current calendar year.

Code, s. 3356; 1868-9, c. 270, s. 71.

4975. Depositing in banks regulated. 1. Any duly incorporated bank, solvent and in good repute, which shall comply with the requirements of this section, shall be a bank of deposit of the public moneys of the state.

2. When any such bank shall desire to become a bank of deposit of the public moneys of the state, it shall file a petition to that effect with the treasurer; and thereupon the treasurer may, within thirty days, make or cause to be made a special examination of the condi-

tion and affairs of such bank and file a report of its affairs and condition with such bank and in his office, and may find in his report whether or not such bank is solvent and in good repute, the amount of its capital stock paid in, and the amount of capital stock subscribed and not paid in; and thereupon the treasurer may, if such bank is found solvent and in good repute, order that it be thereafter a bank of deposit of the public moneys of the state, and shall so notify the bank. The cost of such examination shall not exceed fifty dollars, and shall be paid by the bank filing the petition.

3. The treasurer may distribute to each of the banks which shall be so made banks of deposit of the public moneys which are or may hereafter come into his hands in the proportion that the amount of paid up capital stock of each shall bear to the paid up capital stock of all which may under this section become banks of deposit; and the treasurer may ascertain such proportion and give notice of the same to such bank, and deposit with and set apart to each bank its proportionate part of the deposits of public money. But no part of such moneys shall be deposited with any bank until it shall deposit with the treasurer as collateral security for such public moneys solvent bonds of the market value of one-third of the amount of the public moneys so deposited, and the treasurer may call for an increase in the deposit of bonds from time to time, if such bonds already deposited shall decrease in value or if the amount of the public moneys shall increase, and may withdraw any money on deposit with any bank upon failure to file such increase in the deposit of bonds.

4. In drawing checks upon such deposits the treasurer may have due regard to maintaining the proportion of public money in each bank, so that at all times each bank shall have on deposit its proportionate amount of the same.

5. None of such banks shall collect or charge exchange or make other charge upon drafts of the treasurer.

6. The treasurer shall keep a book in which shall be entered his accounts of moneys deposited in and drawn from all banks in which he may deposit, or cause to be deposited, any public money, which book he shall exhibit to the auditor for his inspection whenever the auditor shall so require.

7. The banks having state deposits shall every month transmit to the auditor a statement of the moneys which have been received and paid by them on account of the treasury.

8. The treasurer shall not draw, nor shall any bank pay, any moneys on account of the treasury, except by checks subscribed by him as treasurer.

9. The corporation commission and the bank examiners shall keep

the state treasurer fully informed at all times as to the condition of all such banks of deposit, so as to fully protect the state from loss.

Code, ss. 3354, 3355, 3356 (2); 1868-9, c. 270, ss. 71, 72, 73; 1893, c. 494; 1897, c. 508.

4976. Discretionary powers as to payment of annual appropriations. Unless otherwise provided, it shall be discretionary with the treasurer whether he shall pay any annual appropriation in monthly, quarterly or semi-annual instalments or in a single payment.

1897, c. 368.

4977. To furnish estimates of expenses of state; draft complete revenue bill; reports printed. It shall be the duty of the treasurer to furnish the general assembly, at the commencement of each session, with estimates of the expenses of the state government and the rates of taxation necessary to pay the same for the two years next succeeding the close of the last fiscal year, and with a scheme in the form of a complete revenue bill to sustain such estimates. It shall also be his duty and that of the boards of directors, managers or trustees of the several state hospitals for the insane, of the several institutions for the deaf, dumb and the blind, and of the state's prison to submit to the general assembly, with their respective reports, bills providing for the support and management of their respective departments. These reports, with those of the other officers of the executive department, shall be submitted to the governor, to be transmitted by him with his message to the general assembly.

Code, ss. 2864, 2865, 2866; 1856-7, c. 30; 1881, c. 272; 1883, c. 60, ss. 2-5.

Note. For number of copies of reports to be printed, see ss. 4313, 4909.

4978. To construe revenue and machinery acts. It shall be the duty of the state treasurer to decide all questions presented to him which may arise upon the construction and execution of all acts of the general assembly to raise revenue commonly called revenue acts, and all acts providing for the assessment of property and collection of taxes, commonly called machinery acts, except where the decision of such questions is expressly conferred upon some other official or department. Such decisions of the treasurer shall be prima facie correct and a protection to the officers affected thereby.

1895, c. 119, s. 17.

4979. Property and money of state; may demand and sue for. The treasurer is authorized to demand, sue for, collect and receive all money and property of the state not held by some person under authority of law.

Code, s. 3359; 1866, c. 46.

4980. Ex officio treasurer of state institutions; duties as such.

The treasurer shall be ex officio the treasurer of the department of agriculture, of the North Carolina college of agriculture and mechanic arts, of the North Carolina school for the deaf and dumb at Morganton, of the North Carolina institution for the deaf and dumb and the blind at Raleigh, for the state hospital (for the insane) at Raleigh, Morganton and Goldsboro, for the state's prison and soldiers' home. He may appoint deputies to act for him at Morganton and Goldsboro, and may pay such deputies reasonable compensation. He shall keep all accounts of the institutions, and shall pay out all moneys, upon the warrant of the respective chief officers or superintendents, countersigned by two members of the board of directors, managers or trustees. He shall report to the respective boards at such times as they may call on him, showing the amount received on account of the institution, amount paid out, and amount on hand. He shall perform his duties as treasurer of these several institutions under such regulations as shall be prescribed in each case by their respective boards of managers, trustees or directors, with the approval of the governor; and shall be responsible on his official bond for the faithful discharge of his duties as treasurer of each of the several institutions. As treasurer of such institutions he shall, annually, after the examination, verification and cancellation of his vouchers, deposit the same with the respective institutions, and the superintendents thereof shall be responsible for their safe-keeping.

Code, ss. 2235, 2251, 3723; 1895, c. 434; 1899, c. 1, s. 11; 1881, c. 211, s. 9, c. 128; 1879, c. 240, s. 2; 1883, c. 156, s. 12, c. 405.

Note. For vouchers of state's prison, see s. 5001.

4981. Chief clerk acts, when; treasurer liable. The treasurer may authorize his chief clerk to perform any duties pertaining to the office, except signing checks; but the treasurer is responsible for the conduct of all his clerks.

Code, s. 3358; 1868-9, c. 270, s. 76.

4982. Fiscal year; examination of accounts. The fiscal year of the state government shall annually close on the thirtieth day of November. The accounts of the treasury, the auditor, and the charitable and penal institutions of the state shall be annually closed on that date. The accounts of the state treasurer and auditor shall be examined during the month of December by commissioners appointed for that purpose at each session of the general assembly, to consist of two senators and three representatives.

Code, s. 3360; 1868-9, c. 270, s. 77; 1883, c. 60; 1885, c. 334.

4983. Duties of the commissioners. The commissioners shall examine the accounts and vouchers relating to all moneys received into and paid out of the treasury during the preceding fiscal year,

and shall certify and report to the legislature at its next session the amount of moneys received and the amount of moneys paid out of the treasury during such year, by virtue of warrants drawn on the treasury by the auditor, the amount of moneys received by the treasurer when he entered his office, and the balance in the treasury at the close of the fiscal year. They shall also compare the warrants drawn by the auditor on the treasury during such fiscal year with the several laws under which the same purport to have been drawn, and shall in like manner certify and report whether the auditor had power to draw such warrant; and if any are found which, in the opinion of the commissioners, he had no power to draw, they shall be specified, with the reasons for the opinion. Whenever the treasurer dies or resigns during his term, or is succeeded at the expiration of his term by another, these commissioners shall examine his accounts. The commissioners shall also examine the warrants drawn on the treasurer by the officials of the various public institutions of the state, whose duty it is to draw such warrants, and the commissioners shall have the same authority over the warrants drawn by the officials of all public institutions as over the warrants drawn by the auditor.

Code, s. 3361; 1868-9, c. 270, ss. 78, 79; 1903, c. 738.

VII. ATTORNEY GENERAL.

4984. Duties. It shall be the duty of the attorney general—

1. To defend all actions in the supreme court in which the state shall be interested, or is a party; and also when requested by the governor or either branch of the general assembly to appear for the state in any other court or tribunal in any cause or matter, civil or criminal, in which the state may be a party or interested.
2. At the request of the governor, secretary of state, treasurer, auditor, corporation commissioners, insurance commissioner or superintendent of public instruction, he shall prosecute and defend all suits relating to matters connected with their departments.
3. To represent all state institutions, including the state's prison, whenever requested so to do by the official head of any such institution.
4. To consult with and advise the solicitors, when requested by them, in all matters pertaining to the duties of their office.
5. To give, when required, his opinion upon all questions of law submitted to him by the general assembly, or by either branch thereof, or by the governor, auditor, treasurer, or any other state officer.

6. To pay all moneys received for debts due or penalties to the state immediately after the receipt thereof into the treasury.

Code, s. 3363; 1868-9, c. 270, s. 82; 1871-2, c. 112, s. 2; 1893, c. 379; 1901, c. 744.

VIII. SOLICITORS.

4985. To prosecute cases removed to federal courts. It shall be the duty of the solicitors of this state, in whose jurisdiction the circuit and district courts of the United States are held, having first obtained the permission of the judges of said courts, to prosecute, or assist in the prosecution of, all criminal cases in said courts where the defendants are charged with violations of the laws of this state, and have moved their cases from the state to the federal courts under the provisions of the various acts of Congress on such subjects.

Code, s. 1239; 1874-5, c. 164, s. 1.

4986. Compensation of solicitors in federal courts. For every such case in which the solicitor shall appear and prosecute, or assist in prosecuting, he shall be allowed twenty dollars; and if he cannot appear himself, by reason of a conflict of the time of holding his courts, or other good cause, he may appoint some one to act in his stead, who shall receive like compensation, and the prosecuting attorney shall be paid said fee by the treasurer of the state, upon the warrant of the auditor.

Code, s. 1240; 1874-5, c. 164, s. 2.

NOTE. For the powers and duties of the superintendent of public instruction, see Education.

For the duties and powers of the insurance commissioner, see Insurance.

CHAPTER 115.

STATE'S PRISON.

	Sections.
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I. GOVERNMENT.

4987. Incorporation; action against, action against state. The board of directors of the state's prison of North Carolina and their successors in office are and shall continue to be a corporation,

with the name of the "State's Prison," which corporation shall be invested with all the property, real and personal, choses in action, and other rights now owned, held or enjoyed by the North Carolina penitentiary or state's prison, and shall be liable for all of the debts and other liabilities for which the penitentiary or state's prison is now liable. Any suit or action against such corporation shall be construed to be brought against the state, and no person shall have the right to bring or maintain any suit or action against it, nor shall any of the courts of the state have jurisdiction to try, hear or determine any such suit or action, except as allowed by the constitution in case of claims against the state.

1901, c. 472, s. 1; Const., Art. IV, s. 9.

4988. Directors appointed by governor; term four years. The state's prison of North Carolina shall be governed and controlled by a board of directors which shall consist of a chairman and four other members, to be appointed by the governor, by and with the advice and consent of the senate. Said board shall be so appointed during the session of the general assembly of one thousand nine hundred and five, and every four years thereafter, and their term of office shall be four years, beginning on the fifteenth day of March next after their appointment.

1901, c. 472, ss. 3, 9.

4989. Governor may remove directors. The governor is empowered to remove the chairman or any member of said board of directors from office for inefficiency or misconduct in office, or if he shall become neglectful of his official duties. The governor shall give such party at least ten days' notice of such intended removal, and the grounds therefor, naming a day certain on which such party may be heard. On the day named the governor shall give said party a full hearing, and the governor's decision upon the matter shall be final.

1901, c. 472, s. 13.

4990. Directors to fill vacancies in board. Whenever any vacancy shall occur in such board of directors the same shall be filled by the remaining members of such board of directors.

1899, c. 601.

4991. Directors to take oath before entering upon duty. The board of directors shall meet in the state's prison, near Raleigh, or in the city of Raleigh, on or after the fifteenth day of March next after appointment, and, after taking the proper oath of office before some person authorized to administer oaths, enter upon the discharge of the duties hereby imposed upon them.

1901, c. 472, s. 10.

4992. Directors to employ servants and agents. The board of directors are authorized to employ such managers, wardens, physicians, supervisors, overseers and other servants, or agents, as they may deem necessary for the management of the affairs of the state's prison and the safe-keeping and employment of the convicts therein confined. They shall fix the compensation of such servants or agents, prescribe their duties by proper rules and regulations, and may discharge them at will.

1901, c. 472, s. 3.

4993. Employees' bonds; moneys paid to state treasurer. The board of directors shall require such of its officers, employees or agents as they shall authorize to receive the moneys and earnings of said institution to enter into good bonds, to be approved by the board, in such amount or amounts as will fully secure their faithfully accounting for the same. All moneys belonging to said institution which shall come to the hands of any of its officers or employees, shall be paid into the hands of the state treasurer within ten days after the same is received, accompanied by a statement showing the source or sources from which the same was derived.

1901, c. 472, s. 7.

4995. Directors manage property and convicts. The board of directors shall have charge of and, through its agents and employees, hold and manage all the property and effects of the corporation, and conduct the operation of all its affairs. The board of directors may adopt and enforce such rules and regulations for the government of the institution, its agents and employees, and the convicts therein confined, as to them may seem just and proper.

1901, c. 472, s. 4.

4996. Custody, employment, hiring out and recapture of convicts. The board of directors shall make provision for receiving and keeping in custody, until discharged according to law, all convicts now confined in such prison, and all such as may be sentenced to imprisonment therein by the courts of this state. It shall also provide for the employment of such convicts, either in the prison or on farms leased or owned by the corporation; and may contract for the hire or employment of any able-bodied convicts, not necessary to be detained in the prison, near Raleigh, upon such terms as may be just and fair to the corporation, but such convicts, when so hired or employed, shall remain under the actual management, control and care of the board of directors or its employees, agents and servants; but no female convict shall be worked on public roads or streets. The board of directors may provide for the recapture of convicts that may escape from such prison, in such manner as it may deem

best, and may pay such reward and expenses to any person making such recaptures as it may think proper. Any citizen of North Carolina shall have authority without warrant to apprehend any convict who may escape before the expiration of his term of imprisonment, and return him to the state's prison.

1901, c. 472, ss. 5, 6; 1897, c. 270; 1895, c. 194, s. 5.

4997. Acquisition and alienation of property. The state's prison is empowered to acquire and hold, by gift, devise, purchase or lease all such property and estate, both real and personal, as may be necessary or convenient in the conduct of its operations and as may be authorized by law; and to dispose of such property and estate by lease, subletting, sale and conveyance; but no sale or conveyance of its real estate shall be made except by the sanction of a unanimous vote of the board of directors and the approval of the governor.

1901, c. 472, ss. 2, 6.

4998. Report to governor. The board of directors shall make to the governor a full report of the financial and physical condition of the said state's prison of North Carolina annually and at such other times as the governor may call for same.

1901, c. 472, s. 12.

4999. Compensation of board; not eligible to other office. The members of the board of directors shall receive as compensation for their services four dollars per day each, and five cents per mile each way of travel, while in the discharge of their official duties; but the board may allow its chairman a salary in lieu of per diem and mileage, and confer such authority, and impose such duties upon him in reference to the management of the institution as it may think proper. No member of the board of directors shall be eligible to any other office or employment in connection with the state's prison.

1901, c. 472, s. 11.

5000. Director not to furnish supplies. No director shall furnish any supplies or materials, directly or indirectly, for the support of the convicts, or for the use of the state's prison.

Code, s. 3429; 1870-1, c. 191, s. 9; 1873-4, c. 158, s. 20; 1879, c. 333, s. 6.

5001. Duty of state treasurer. The treasurer of the state shall keep the funds of the state's prison separate from other public funds, and shall disburse the same on account of the state's prison upon vouchers consisting of itemized accounts of the claim, and an order of payment signed by such officer or agent as the board of directors shall authorize to sign the same, approved by the chairman of the board. Duplicates of such vouchers shall be kept and filed in the

office of the chairman of the board of directors and the originals thereof shall be kept and filed when paid in the office of the state treasurer.

1901, c. 472, s. 8.

II. CONVEYING CONVICTS TO.

5002. Direct to place of labor. The board of directors shall, as far as practicable, make arrangements for the conveying of convicts from the places where convicted, direct to the place where they are to be worked, when it would be to the interest of the state so to do.

Code, s. 3428; 1879, c. 333, s. 5; 1881, c. 289, s. 2.

5003. To be sent within five days. The sheriff, having in charge any prisoner sentenced to the state's prison, shall proceed to send him to the state's prison or place of assignment, within five days after the adjournment of the court at which he was sentenced, if no appeal has been taken.

Code, s. 3432; 1869-70, c. 180, s. 3.

5006. Copy of affidavit filed with commissioners. The sheriff shall file with the board of commissioners of his county a copy of his affidavit as to necessary guard, together with a copy of his itemized account of expenses, both certified to by the auditor as true copies of those on file in his office.

Code, s. 3437; 1874-5, c. 107, s. 3.

Note. Failure to file above affidavit a misdemeanor, see Crimes.

5007. State not liable for expenses before conveyed to prison. The state shall not be held liable for the expense of maintaining convicts until they shall have been received by the state's prison authorities, nor shall any moneys be paid out of the treasury for support of convicts prior to such reception.

Code, s. 3438; 1870-1, c. 124, s. 3.

III. DISCIPLINE AND CONTROL.

5008. Rules and regulations printed and posted. The board of directors is authorized to adopt such rules and regulations for enforcing discipline as their judgment may indicate, not inconsistent with the constitution and laws of the state. And they shall print and post the same with the following section, in the cells of the convicts, and the same shall be read to every convict in the state's prison when received.

Code, s. 3444; 1873-4, c. 158, s. 15.

5009. Infraction of rules recorded; diminution of term by good behavior. The board of directors shall require to be kept a book in which shall be entered a record of every infraction of the published rules of discipline with the name of the prisoner so guilty, and the punishment inflicted therefor, which record shall be submitted to the directors at their monthly meeting; and every prisoner who may have been sentenced for a term of years, who shall at the end of each month have no infraction of the discipline so recorded against him, shall for each month be entitled to a diminution of five days from the term of his sentence, and for every ten days he shall thus become entitled, he shall have a further reward of one dollar placed to his credit, with the warden, to be paid to him on his discharge or sent to his family as he may elect; and for every five dollars of commutation he shall be entitled to five additional days' diminution; and it shall be the duty of the warden to discharge such convict from the penitentiary when he shall have served the time of his sentence less the number of days he may be entitled to have deducted therefrom, in the same manner as if no deduction had been made; but if such convict shall be guilty of a violation of the printed and published rules of the prison after he shall have become entitled to a diminution of his term of service to which he has been sentenced, the directors shall have the power to deprive, at their discretion, such convict of a portion or all (according to the flagrance of such violation of discipline) of the diminution of term of sentence or commutation to which he had previously been by this section entitled. Any convict who shall make an assault on any officer, overseer or guard, or who shall be engaged in an insurrection, or make an attempt to escape, shall not be entitled to the benefits of this section.

Code, s. 3445; 1899, c. 457; 1873-4, c. 158, s. 16.

5010. Money commutation allowed. The directors of the state's prison are authorized to make rules and regulations for a reasonable commutation in money to be given convicts as a reward for good conduct during the term of their imprisonment.

1901, c. 726.

5011. Convict furnished transportation out of commutation money. The superintendent of the state's prison shall furnish to every convict, upon the expiration of his term of imprisonment, a certificate of transportation or railroad ticket to the county in which such convict was convicted, or to any other county less distant, which such convict may designate, and in which the state's prison may not have convicts employed, and shall pay the cost thereof out of commutation money, if there be any to the credit of such convict, under the provision of this chapter; and the superintendent shall so coun-

tersign such certificates or tickets as to render them nontransferable, and shall compel every convict, as the proper holder thereof, to take passage upon the train or steamboat bound for the destination of such convict.

1893, c. 370.

5012. Divine services; Sunday school. The board of directors is authorized to provide for divine service for the convicts each Sunday, if possible, and to secure the visits of some minister at the hospital to administer to the spiritual wants of the sick, and an appropriation of not more than five hundred dollars per annum may be made for these purposes. The sum of fifty dollars per annum is appropriated for the use of the state's prison Sunday school, to be paid to the warden of the state's prison by the state treasurer on the warrant of the auditor.

Code, s. 3446; 1873-4, c. 158, s. 18; 1883, c. 349.

5013. Children born in state's prison. Any child born of a female convict while she is in the custody of the state's prison that shall not be taken in charge upon arrival at an age suitable to be separated from the mother by some of its kindred or other responsible party shall, on the application of the deputy warden to the clerk of the superior court of the county of Wake, be disposed of as the law provides in the case of children whose parents are dead or unable to provide for them.

Code, s. 3447; 1873-4, c. 158, s. 19.

Note. Convicts becoming insane, see State Hospitals for Insane

5014. Recaptured convicts to serve out term. Any convict who shall effect an escape shall, on his recapture, be required to make up the full term for which he was sentenced, and shall in no case be discharged until he has served in the prison the full term of his sentence.

Code, s. 3442; 1873-4, c. 158, s. 13.

5015. Overseers and guards may maintain discipline. When a convict or several combined shall offer violence to any officer, overseer or guard, or to any convict, or attempt to do any injury to the prison building or the workshops, or shall attempt to escape or shall resist or disobey any lawful command, the officer, overseer or guard, shall use any means necessary to defend himself, to enforce the observance of discipline, to secure the person of the offender and to prevent an escape.

Code, s. 3443; 1873-4, c. 158, s. 14.

Note. For selling liquor and furnishing weapons to convicts, see Crimes.

5016. Death of convict investigated by directors. It shall be the duty of the board of directors, or some member thereof, upon information of the death of a convict, other than by natural causes, to investigate the cause thereof, and report the results of such investigation to the governor, and for this purpose the board of directors, or any member thereof, shall have power to administer oaths, and send for persons and papers.

1885, c. 379, s. 2.

IV. FARMING OUT CONVICTS.

5017. Counties and towns may employ. It shall be lawful for the board of commissioners of any county, and likewise for the corporate authorities of any city or town, to contract in writing with the board of directors of the state's prison for the employment of such convicts as by existing laws may be hired to railroad companies, upon the highways or streets for the construction or improvement of the same, of the county, city or town whose authorities shall so hire such convicts.

Code, s. 3449; 1881, c. 127, s. 1.

5018. Duty to hire to counties and towns. Upon application to them it shall be the duty of the board of directors of the state's prison to hire to the board of commissioners of any county, and to the corporate authorities of any city or town, for the purpose specified in the preceding section, such convicts as may lawfully be hired for service outside the state's prison, as shall not at the time of such application be so hired; but the convicts hired for service upon the highways and streets shall be fed, clothed and quartered while so employed by the board of directors or managers of the state's prison as in case of the hiring of convicts to railroad companies.

Code, s. 3450; 1881, c. 127, s. 2.

Note. For allowing escape of or maltreating convict, see Crimes.

5019. Contract for hire, how enforced. The board of commissioners of any county, and the corporate authorities of any city or town so hiring such convicts, shall pay into the treasury of the state for the labor of any convict so hired a sum of money equal to the average cost in money of feeding, clothing, guarding and transporting such convicts to and from the place of employment for the town of such hiring, and the money so to be paid at such times as may be agreed upon in the contract of hire; and if any such county, city or town shall fail to pay the money due for such hiring, the same shall bear interest from the time it shall become due until paid, at the rate of six per cent. per annum, if such rate is agreed upon in such written contract, and an action to recover any sum of money

so due and imposed may be brought by the attorney general in the superior court of the county of Wake in the name of the state.

Code, s. 3451; 1881, c. 127, s. 3.

5020. Counties to appoint superintendents. The board of commissioners of any county, and the corporate authorities of any city or town so hiring such convicts, shall have power to appoint and remove at will all such necessary agents to superintend the construction or improvement of such highways and streets as they may deem proper, and to pay the costs and expenses incident to such hiring, may levy taxes and raise money as in other respects.

Code, s. 3452; 1881, c. 127, s. 4.

V. REFORMATORY.

5021. Directors may establish and control. There may be established in connection with the North Carolina state's prison, under the control and direction of the board of directors of that institution, a reformatory either within the enclosure of the penitentiary or elsewhere as said board shall deem most practicable and economical, in which reformatory convicts under the age of fifteen years sentenced to the penitentiary shall be confined separate and apart from other convicts.

1887, c. 356, s. 1.

5022. May exempt from convict garb. It shall be in the discretion of the board to exempt the convicts confined in the reformatory from the requirement of wearing the usual convict garb.

1887, c. 356, s. 2.

5023. Not to apply to certain crimes. Nothing in the two preceding sections shall apply to convicts sentenced for the crimes of murder, arson, rape or burglary.

1887, c. 356, s. 3.

CHAPTER 116.

TRAINED NURSES.

(Sections 5024—5032.)

5024. Registration after January first, one thousand nine hundred and four. On and after January first, one thousand nine hundred and four, registration as a trained nurse shall be made by the

clerk of the court solely upon the presentation to him of a license from the state board of examiners of nurses as created and provided by this chapter.

1903, c. 359, s. 2.

5025. Registration by clerk; certificate of registration. The clerk of the superior court of any county, upon presentation to him of a license from the said board of examiners, shall register the date of registration with the name and residence of the holder thereof in a book to be kept in his office for this purpose, and marked "Register of Trained Nurses," and shall issue to the applicant a certificate of such registration under his seal.

1903, c. 359, s. 6.

Note. For fee for registration, see Salaries and Fees, sec. 2779.

5026. Board of examiners; election; term; compensation. There shall be established a board of examiners of nurses composed of five members, two physicians and three registered nurses, to be elected by the medical society of the state of North Carolina and the North Carolina state nurses association respectively, to be known by the title of "The Board of Examiners of Trained Nurses of North Carolina." Their term of office shall be three years. Three members, one of whom shall be a physician, shall constitute a quorum, and a majority of those present shall have a deciding vote. They shall each receive as compensation for his or her services when engaged in the work of the board four dollars a day and actual traveling and hotel expenses, the same to be paid out of money received for licenses issued, and in no case to be charged upon the treasury of the state.

1903, c. 359, s. 3.

5027. Officers; by-laws; vacancies filled. The board of examiners is authorized to elect such officers and frame such by-laws as may be necessary, and upon the occurrence of a vacancy is empowered to fill such vacancy for the unexpired term.

1903, c. 359, s. 4.

5028. Meetings of board of examiners. The board of examiners shall meet not less frequently than once in every year, notice of which meeting shall be given in the public press.

1903, c. 359, s. 5.

5029. Examination of applicants; license; discretion; license fee. At such meetings it shall be their duty to examine all applicants for license as registered nurse, of good moral character, in the elements of anatomy and physiology, in medical, surgical, obstetrical and practical nursing, invalid cookery and household hygiene,

and grant a license to each applicant whom they shall find competent, authorizing him to register, as hereinafter provided, and to use the title "Registered Nurse," signified by the letters "R. N." The said board of examiners may, in its discretion, issue license without examination to such applicants as shall furnish evidence of competency entirely satisfactory to them. Each applicant, before receiving license, shall pay a fee of five dollars, which shall be used for defraying the expenses of the board.

1903, c. 359, s. 5.

5030. Blank certificates and records furnished clerk. It shall be the duty of the North Carolina state nurses association to prescribe a proper form of the certificate required by this chapter, and to furnish the same in sufficient quantity, suitably bound in a book and labeled "Register of Trained Nurses," to the clerk of the court of each county.

1903, c. 359, s. 7.

5031. Revocation of license. The board of examiners shall have power, after twenty days' notice of the charges preferred and the time and place of meeting, and after a full and fair hearing on the same, by a majority vote of the whole board, to revoke any license issued by them for gross incompetency, dishonesty, habitual intemperance, or any other act in the judgment of the board derogatory to the morals or standing of the profession of nursing. Upon the revocation of a license or certificate the name of the holder thereof shall be stricken from the roll of registered nurses in the hands of the secretary of the board, and upon notification of such action by said secretary, by the clerk of the court from his register.

1903, c. 359, s. 8.

5032. General privileges not abridged. Nothing in this chapter shall in any manner whatever curtail or abridge the right and privilege of any person to pursue the vocation of a nurse, whether trained or untrained, registered or not registered.

1903, c. 359, s. 10.

NOTE. For criminal liability for acting without registration, etc., see Crimes, s. 3600.

CHAPTER 117.

UNITED STATES LANDS.

(Sections 5033—5037.)

5033. May acquire for certain purposes. It shall be lawful for the United States to purchase or otherwise acquire title to any tract or parcel of land in the state of North Carolina, not exceeding twenty-five acres, for the purpose of erecting thereon any custom-house, courthouse, postoffice or other building, including lighthouse, light-keeper's dwellings, life-saving stations, buoys and coal depots and buildings connected therewith, or for the establishment of a fishcultural station and the erection thereon of such buildings and improvements as may be necessary for the successful operations of such fishcultural station. This cession is upon the express condition that the state of North Carolina shall so far retain a concurrent jurisdiction with the United States over such lands as that all civil and criminal process issued from the courts of the state of North Carolina may be executed thereon in like manner as if this authority had not been given, and that the state of North Carolina also retains authority to punish all violations of its criminal laws committed on any such tract of land.

Code, ss. 3080, 3083; 1887, c. 136; 1899, c. 10; 1870-1, c. 44, s. 5.

5034. Condition of consent. The consent given in the preceding section is upon consideration of the United States building lighthouses, lighthouse-keepers' dwellings, life-saving stations, buoys, coal depots, fish stations, postoffices, custom-houses and other buildings connected therewith, on the tracts or parcels of land so purchased, or that may be purchased; and that the title to land so conveyed to the United States shall revert to the state unless the construction of the aforementioned buildings be completed thereon within ten years from the date of the conveyance from the grantor.

Code, s. 3084; 1870-1, c. 44, s. 5.

5035. Exempt from taxation. The lots, parcels or tracts of land acquired under this chapter, together with the tenements and appurtenances for the purpose mentioned in this chapter, shall be exempt from taxation.

Code, s. 3082; 1870-1, c. 44, s. 3.

5036. Deeds to be registered as other conveyances. All deeds, conveyances or other title papers for the same shall be recorded, as in other cases, in the office of the register of deeds of the county in

which the lands so conveyed may lie, in the same manner and under the same regulations as other deeds and conveyances are now recorded, and in like manner may be recorded a sufficient description by metes and bounds, courses and distances, of any tract or legal division of any public land belonging to the United States, which may be set apart by the general government for the purpose before mentioned, by an order, patent or other official document or paper so describing such land.

Code, s. 3081; 1870-1, c. 44, s. 2; 1872-3, c. 201.

5037. Forest reserve, western Carolina. The United States is authorized to acquire by purchase, or by condemnation with adequate compensation, except as hereinafter provided, such lands in western North Carolina as in the opinion of the federal government may be needed for the establishment of a national forest reserve in that region. This consent is given upon condition that the state of North Carolina shall retain a concurrent jurisdiction with the United States in and over such lands so far that civil process in all cases, and such criminal process as may issue under the authority of the state of North Carolina against any person charged with the commission of any crime without or within said jurisdiction, may be executed thereon in like manner as if this consent had not been given. Power is hereby conferred upon the Congress of the United States to pass such laws as it may deem necessary to the acquisition as hereinbefore provided, for incorporation in such national forest reserve such forest covered lands lying in Western North Carolina as in the opinion of the federal government may be needed for this purpose, but as much as two hundred acres of any tract of land occupied as a home by bona fide residents in this state on the eighteenth day of January, one thousand nine hundred and one, shall be exempt from the provisions of this section. Power is hereby conferred upon Congress to pass such laws and to make or provide for the making of such rules and regulations, of both civil and criminal nature, and to provide punishment therefor, as in its judgment may be necessary for the management, control, and protection of such lands as may be from time to time acquired by the United States under the provisions of this section.

1901, c. 17.

CHAPTER 118.

VETERINARY BOARD.

(Sections 5038—5045.)

5038. Incorporated. The association of veterinary surgeons and physicians calling themselves The North Carolina State Veterinary Medical Association is declared to be a body politic and corporate under the name and style of The North Carolina State Veterinary Medical Association.

1903, c. 503.

5039. Board, how created; term of office; oath of. In order to properly regulate the practice of veterinary medicine and surgery there shall be a board to be known as the North Carolina board of veterinary medical examiners, to consist of five members of the North Carolina veterinary medical association. The governor shall annually appoint one member of such board, who shall hold his office for five years, and until his successor is appointed and qualified. Every person so appointed shall, within thirty days after notice of appointment, appear before the clerk of the superior court of the county in which he resides and take oath to faithfully discharge the duties of his office.

1903, c. 503, s. 2.

5040. When to meet; powers. The board of examiners shall meet at least once a year at such times and places as the association may decide upon, and remain in session sufficiently long to examine all who may make application at the appointed time for a license. Three members of said board shall constitute a quorum. The board of examiners shall elect a president and a secretary, who shall also perform the duties of a treasurer. They shall keep a regular record of their proceedings in a book to be kept for that purpose, which shall always be open for inspection, and shall keep a record of all applicants for a certificate and of all who are granted a certificate, and shall publish the names of the successful applicants at least once each year in two newspapers published in the state. The board shall have authority to adopt such by-laws and regulations as may be necessary.

1903, c. 503, ss. 3, 4, 6, 7.

5041. Compensation of board. The members of such board shall receive such compensation for their services, not to exceed four dollars per day, and their traveling expenses, as the association may

decide upon, to be paid by the secretary of the board out of any money coming into his hands as secretary. None of the expenses of the board or of the members shall be paid by the state.

1903, c. 503, s. 9.

5042. May grant certificate. The board of examiners shall, at their annual meeting, examine all applicants, who desire license to practice veterinary medicine or surgery. If upon such examination the applicant be found to possess sufficient skill to practice veterinary medicine or surgery, and of good moral character, a license or certificate shall be issued to him. No certificate shall be granted except with a concurrence of a majority of the members present. To prevent delay and inconvenience two members of the board of examiners may grant a temporary certificate to practice veterinary medicine or surgery, which shall be in force only until the next regular meeting of the board of examiners, but in no case shall such temporary certificate be granted to any person who has been an unsuccessful applicant for a certificate before the board. The board shall have power to require each applicant to pay a fee of not more than ten dollars before issuing a certificate and five dollars before issuing a temporary certificate.

1903, c. 503, ss. 3, 5, 8.

5043. May rescind certificate, when. The board shall have power to rescind any certificate that may have been granted by it or annul any registration made under this chapter, upon satisfactory proof that the person thus licensed has been guilty of grossly immoral conduct or malpractice as determined by the board. And it shall be the duty of said board to furnish any information pertaining to the practice of veterinary medicine or surgery upon application for same by any one practicing under this chapter.

1903, c. 503, s. 10.

5044. Those practicing prior to one thousand nine hundred and three. All persons who have been practicing veterinary medicine or surgery previous to the first day of March, one thousand nine hundred and three, shall be allowed to practice veterinary medicine or surgery in this state: Provided, they make affidavit to the effect that they have practiced veterinary medicine or surgery as a profession previous to the said date, and have had their names registered in the office of the clerk of the superior court of the county in which they reside on or before January first, one thousand nine hundred and five, in a book that shall be kept for that purpose.

1903, c. 503, s. 11.

5045. Who may practice without license. Nothing in this chapter shall be construed to prohibit any member of the medical profes-

sion from prescribing for domestic animals in cases of emergency and collecting a fee therefor, nor to prohibit gratuitous services by any person in an emergency, nor to prevent any person from practicing veterinary medicine or surgery on any animal belonging to himself, or to prevent any one from castrating or spaying any of the domestic animals. And this chapter shall not apply to commissioned veterinary surgeons in the United States army.

1903, c. 503, s. 12.

CHAPTER 119.

CONCERNING THESE REVISED STATUTES.

(Sections 5046—5055.)

5046. Public statutes repealed; acts heretofore repealed not revived. All public and general statutes not contained in these Revised Statutes are hereby repealed, with the exceptions and limitations hereinafter mentioned. No statute or law which has heretofore been repealed shall be revived by the repeal contained in any of the sections of these Revised Statutes.

5047. Repeal not to affect rights accrued, nor suits commenced. The repeal of the statutes mentioned in the preceding section shall not affect any act done, or any right accruing, accrued or established, or any action or proceeding had or commenced in any case before the time when such repeal shall take effect; but the proceedings in every such case shall be conformed, when necessary, to the provisions of these Revised Statutes.

5048. Offenses and penalties not affected. No offense committed and no penalty or forfeiture incurred under any of the statutes hereby repealed, and before the time when such repeal shall take effect, shall be affected by the repeal.

5049. Pending actions and proceedings not affected. No action or proceeding pending at the time of the repeal, for any offense committed, or for the recovery of any penalty or forfeiture incurred under any of the statutes hereby repealed, shall be affected by such repeal, except that the proceedings in such action or proceeding shall be conformed, when necessary, to the provisions of these Revised Statutes.

5050. Effect of repeal on persons holding office. All persons who at this time shall hold any office under any of the acts hereby repealed shall continue to hold the same according to the tenure thereof.

5051. What acts not repealed. No act of a private nature, unless in conflict with the provisions of these Revised Statutes, no act relating to fishing in any particular section of the state, no act relating to the boundaries of the state or any county, no act ceding the lands of this state to the general government, no act prohibiting the sale of liquors in any particular section of the state, no act regulating fences in any particular section of the state, and no act regulating the working and maintaining roads in any particular section of the state shall be construed to be repealed by any section of these Revised Statutes.

5051a. Revised Statutes published. The commissioners appointed to compile the Revised Statutes are authorized and directed to publish the same as speedily as possible, after the adjournment of the general assembly, and they shall include therein all such general public statutes as may be enacted at this session of the general assembly, and shall also include the statutes fixing the time for the sheriffs and tax collectors of certain counties, which are exempted from the operations of the general law, to settle with the state treasurer; and they are hereby authorized to change the number of sections, transfer sections, chapters and subchapters, and make such purely clerical corrections as may be deemed expedient and which do not change the law.

5052. Number of copies to be published; type preserved. There shall be published of these Revised Statutes eight thousand five hundred copies of the first volume, and one thousand five hundred copies of the second volume, the copyright whereof shall be secured to the state by the commissioners. The expense of preparing, printing, supervising, publishing, binding and delivering the same shall be paid by the state treasurer on the warrant of the auditor approved by the governor founded on requisitions made from time to time by the commissioners. The secretary of state shall store and properly preserve the type and type-metal from which these Revised Statutes shall have been published, for future use by the state, the expense of which shall be paid out of any money in the treasury not otherwise appropriated.

5053. Compensation of the commissioners. When the publication of the Revised Statutes shall have been completed and delivered to the order of the governor the commissioners and their clerks shall

receive such compensation as to the governor shall seem just and reasonable, to be paid by the State treasurer upon the warrant of the auditor approved by the governor, out of any money not otherwise appropriated.

5054. Distribution and sale. The secretary of state shall, immediately upon the receipt by him of the Revised Statutes duly published and bound, distribute the same in the same manner that the public laws are distributed, except that only the first volume shall be sent to the clerks of the superior courts for the use of the several justices of the peace in their respective counties. The secretary of state is authorized to sell copies thereof in the same manner as the public laws are now sold, except that the price of the first volume shall be three dollars, and the price of the second volume shall be two dollars.

5055. When Revised Statutes to take effect. All the provisions, chapters, subchapters and sections contained in these Revised Statutes shall be in force from and after the first day of July in the year of our Lord one thousand nine hundred and five.

REPORT OF COMMISSIONERS.

REPORT OF COMMISSIONERS APPOINTED TO COMPILE THE PUBLIC LAWS OF THE STATE.

To the Honorable the General Assembly of the State of North Carolina:

The commissioners appointed by the general assembly of North Carolina at its session of 1903 to compile, collate, revise and digest all the public statute laws of this state, pursuant to chapter 314 of the public laws of 1903, herewith submit the result of their labors in the form of a bill to be entitled "An Act for Revising and Consolidating the Public and General Statutes of the State of North Carolina, to be known as the Revised Statutes," and have caused the same to be printed and the edition of five hundred copies, intended for use by the legislature, to be bound in two separate volumes.

The first of these volumes contains the statutes of general application, and more particularly affecting the people as a whole, while in the second is collected those statutes relating largely to the political government of the commonwealth and of its several departments and institutions. There are also included in the second volume those statutes which it is customary to have printed in pamphlet form and are largely distributed in that form. As for example, the school law, the law governing elections, the insurance law, the revenue and machinery acts, etc.

If the general assembly shall adopt the same manner of publication and binding, much expense will be saved to the state, as it will not be necessary to place the second volume in the hands of the justices of the peace. All of the statutes relating to their official duties will be found codified in the first volume. With this in view the chapter concerning these Revised Statutes contemplates the publication of a limited number of copies of volume two, and the same number of copies of volume one as the state now publishes of its public laws.

This recommendation of publishing a much smaller number of copies than were published of The Code, is made feasible and ample by reason of the fact that in the exercise of the discretion given the commissioners in publishing the legislative edition of the Revised Statutes they purchased for the state the type-metal from which the edition was printed, and have caused the entire body to be preserved in the linotype form. The composition having been done on a double-decked Mergenthaler machine, each line in the entire publication can be and has been preserved in its exact form. This enables the

REPORT OF COMMISSIONERS.

state to publish its permanent edition, after incorporating the enactments of the approaching general assembly, with no additional cost of composition, other than that made necessary by amendments, and by new legislation.

This retention of a practically stereotyped edition, but one in which lines can be changed and forms rearranged with ease, will also enable the publication of new editions of the Revised Statutes as often as each recurring legislature shall deem it wise, and at a minimum cost. It also renders large editions useless and unnecessary.

There were published twenty thousand volumes of The Code. The commissioners recommend an aggregate edition of ten thousand volumes of the Revised Statutes, eight thousand five hundred of volume one and fifteen hundred of volume two, and they are assured this will supply the needs of the state, notwithstanding its great growth in the twenty-two years since The Code was enacted.

In the selection of a name for this compilation of our statutory law it was thought that confusion and uncertainty would arise by the use of the name Code. Both The Code and the Revised Code are frequently cited in this work. It is nearly seventy years since the name Revised Statutes was given to such a publication, and it is now rarely cited or referred to any way. For this reason the oldest name in use in the state was selected.

Time was too short and the labor too great to prepare a creditable index for the legislative edition, and in lieu of it, there is printed the captions of chapters, subchapters and sections, at the end of each volume respectively.

In view of the character of section head lines adopted, and the information contained in the top line of each page, as well as the division of chapters into appropriate subchapters, it was considered that it would be a useless expense, and unnecessarily add to the bulk of the volume to print at beginning of the chapters the captions of the sections, as was done in The Code and in the Revised Code. It is confidently believed that when familiar with the system used, with the aid of the sectional and chapter foot notes, but few occasions will arise when it will be necessary to refer to an index to find the statutory law on any given subject. However, it is the purpose of the commissioners, should the legislature continue their services, to prepare and print in the regular edition an elaborate index in lieu of the captions printed in the legislative edition.

No references have been made by foot or marginal notes to judicial interpretation of the statutes, as such notes were not contemplated by the act prescribing the duties of the commissioners. Should the general assembly desire such notes in future, they can be readily prepared. But considering the great volume of judicial determinations

REPORT OF COMMISSIONERS.

since the publication of The Code, the commissioners are of opinion that it would delay the publication of the Revised Statutes too greatly to attempt to add them now. Several methods suggest themselves by which the same end can be accomplished and avoid the delay in the publication of this much-needed work. For example, a supplement can be prepared, giving the decisions of our court of last resort and referring to the sections of the Revised Statutes by number. It will be observed that the sections are numbered consecutively through both volumes.

The manuscript has been prepared for the Constitution of the United States, and of the State of North Carolina, as well as of the laws of the Congress regulating the naturalization of citizens, authentication of records and removals to the federal courts, as required by the act, but as no additional force can be given them by legislative enactment and useless expense entailed by printing them as appendices they have been omitted. They can be easily inserted in the permanent edition.

The revenue and machinery acts have been omitted as the commissioners deemed it unwise to publish these acts when there is a reasonable certainty that the general assembly will enact a new revenue bill and machinery act. It would have entailed a useless expense. These will be incorporated in the permanent edition, together with the statutes in reference to the time of the several counties settling their state taxes.

It is recommended that the commissioners be authorized to include in the permanent edition of the Revised Statutes such general public laws as may be enacted at the approaching session of the general assembly, and that express authority be given them to change the number of sections, transfer sections and chapters, and make such purely clerical corrections as may be deemed expedient and which do not change the law.

It has been a matter of great concern and deep regret that the statute has not been complied with as to the time of delivery of work by the commissioners to the secretary of state. The commissioners and their assistants have labored industriously to accomplish the desired result, but the difficulties were too great and the labors too arduous.

Respectfully submitted,

THOMAS B. WOMACK,
NEEDHAM Y. GULLEY,
WILLIAM B. RODMAN.

Raleigh, N. C., December 1, 1904.

APPENDIX.

APPENDIX.

DEPARTMENT OF GEOLOGY.

NOTE. The commissioners are of opinion that this chapter as it exists in The Code, s. 2198, amended by the laws of 1891, chapter 417, should be repealed, and that if it is the purpose of the state to have a geological survey an act properly safeguarded, and with adequate machinery, should be passed by the general assembly.

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379—801, 802	442—574
380—805	443—575, 580
381—806	444—581
382—807	445—594
383—804	446—
384—515	447—583
385—516	448—585
386—517	449—582
387—402	450—587
388—520	451—589
389—522	452—588
390—516	453—590
391—504	454—601
392—505	455—603
393—506	456—599
394—507	457—600, 2890
395—508	458—605
396—509	459—602, 2889
397—487	460—606
398—488	461—607
399—488	462—608
400—489	463—591
401—490	464—592
402—491	465—593
403—493	466—595
404—1948	467—596
405—1945, 1957	468—597
406—1944	469—584
407—494	470—576
408—510	471—609
409—511	472—598
410—512	473—610
411—513	474—611
412—514	475—612
413—495	476—613
414—496	477—614
415—498	478—615
416—500	479—616
417—501	480—617
418—502	481—618
419—503	482—619

COMPARATIVE NUMBERS.

483—620	545—544
484—621	546—475
485—622	547—545
486—623	548—546
487—624	549—549
488—625, 626, 628, 629, 630, 631	550—550
489—632	551—551
490—627, 633	552—552
491—628	553—556
492—634	554—557
493—636	555—558
494—631, 637	556—559
495—638	557—560
496—639	558—561
497—640	559—562
498—641	560—553
499—1221	561—554
500—642	562—548
501—643	563—564
502—644	564—565
503—645	565—566
504—646	566—1229
505—649	567—760
506—650	568—761
507—652	569—762
508—653	570—540
509—651	571—541
510—1222	572—542
511—661, 1421	573—815
512—654	574—814
513—655	575—816
514—664	576—817
515—662	577—818
516—665, 3552	578—1640, 1642
517—647, 3553	579—819
518—647, 3554	580—820, 1617
519—656	581—821
520—663	582—822
521—1223	583—823
522—658	584—824
523—659	585—825
524—660, 666	586—826
525—1213	587—827
526—1214	588—1620
527—1214, 1215	589—1613
528—1198	590—1615
529—1935	591—1608
530—1934	592—1609
531—1936	593—1610
532—1204	594—828, 829, 830, 831
533—1216	595—832
534—1224	596—841
535—1225	597—833, 834, 835, 836, 837, 838,
536—1208	839
537—1210	598—2825
538—1212	599—482
539—1226	600—465
540—1227	602—842
541—1220	603—781
542—1228	604—1071
543—1200	605—1071
544—543	607—782, 1070

COMPARATIVE NUMBERS.

608—783	671—1085
609—786	672—1085
610—794	673—1085
611—798.	674—1085
612—	675—1085
613—799	676—1085
614—787	677—1009
615—795	678—1011
616—788	679—1011
617—1082	680—1107
618—1083	681—1065
619—1076	682—1011
621—800	684—1006
622—777	685—1002
623—778, 779	686—1027, 1070
624—808	687—1074
625—808	688—1119
626—810	689—1041
627—811	690—1000
628—812	691—1000
629—813	692—1000
630—780	693—1000
631—878	694—1069
632—879	695—1072
633—880	696—1108
634—881	697—1111
635—882	698—1111
636—882	699—1109, 2881
637—882	700—1110, 2881
638—883	701—1001, 2564
639—882	702—1256, 2916
640—884	703—1256, 2918
641—885	704—1257, 2917
642—887	705—1257
643—890	706—1264
644—891	707—1266
645—888	708—1263
646—889	709—2791
647—266	710—1271, 2782
648—892	711—3536
649—893	712—1272
650—894	713—1273
651—895	714—3542
652—895	715—1602
653—896	716—1259
654—897	717—1260
655—898	718—1267
656—897	719—1261, 1262
657—997	720—1268
658—998	721—1269
659—999	722—1270
660—999	723—1323, 4015
661—263, 994	724—1325
662—264	725—1324
663—1000	726—1325
664—1018	728—1327
665—1014	729—1329
666—1000	730—1328
667—1073	731—3541
668—1076, 1092, 1095	732—1202
669—1977	733—1205, 1230, 1253
670—1080	734—1206, 3556

COMPARATIVE NUMBERS.

735—1207	797—1310
736—1233	798—1319
737—1242	799—1320
738—1244	800—1321
739—1230	801—1322
740—1236	818—1358
741—1232	819—1359
742—1211	821—1360
743—1249	822—1361, 3557
744—1250	823—1362
745—1251	824—1374
746—1252	825—1364
747—1237	826—1363
748—1253	827—1366
749—1240	828—1367, 3558
750—1241	829—3558
751—1334	830—1393
752—1335	831—1365
753—1326	832—1394
754—1332	833—1395
755—1333	834—1368
756—358	835—1370
757—1331	836—1371
758—1336	837—1372
759—1338	838—1373
760—1339	839—1425
761—1340	840—1403, 1404, 1405, 1406, 1407, 1408, 1409, 1410, 1411, 1412, 1414, 1415, 1416, 1417, 1418, 1419, 1427
762—1337	841—1428
763—2787	842—1429
764—1330	843—1430
765—3542	844—1423
766—261	845—1424
767—1355	846—1426
768—1342	847—1400
769—1344	848—1375
770—1343, 2784	849—1421
771—1356	850—1421
772—1349	851—1421
773—1345	852—1421
774—2785	853—1420
775—1357	854—1377
776—3542	855—1378
777—1354	856—1379
778—1350	857—1380
779—1351	858—1382
780—1352	859—1383
781—1353	860—1384
782—1282	861—1385
783—1283	862—1386
784—1284, 3530	863—1387
785—1952	864—1392
786—1307	865—1435
787—1311	866—1389
788—1313	867—1388
789—1315	868—1390
790—1308	869—1381
791—1317	870—1391
792—1318	871—1396
793—1316	872—1397
794—1314	
795—1312	
796—1309	

COMPARATIVE NUMBERS.

873—1398	937—1829
874—1399	938—524
875—1436	939—1452
876—1437	940—840, 1477
877—1438	941—1472
878—1439	942—363, 1473
879—1440	943—1476
880—567	944—1451
881—568	945—1487
882—1431	946—1488
883—1432	947—1485
884—1433	948—1486
885—1434	949—942
886—1441	950—1502, 2774
887—1369	951—2766
888—1422	953—1483
889—1421	954—1484
890—1421	955—1481
891—1421	956—1482
892—1376	957—1490
893—3148	958—255
894—3153	959—1498
895—1254	960—2773
896—3174	961—1489
897—3237	962—1492
898—3238	963—1495
899—3239	964—1496
900—3254	965—1493
901—3255	966—1494
902—3241	967—1491
903—3241	968—1497
904—1255	969—1499
905—1239	970—3333
906—3242	971—3334
907—1402	972—3335
908—1413	973—3336
909—1442	974—3337
910—1454	975—3568
911—1457	976—3569
913—1459	977—3267
914—1460	978—3268
915—1461	979—
916—1464	980—3269
918—1462, 2769	981—3655
919—1465	982—3473
920—1466	983—3474
921—1463, 1949	984—3475
922—1447	985—3315, 3316, 3317, 3320, 3322
923—1449	986—3501
924—1443	987—3570
925—1467	988—3339
926—1458	989—3403
927—1475	990—3641
928—2844	991—3524
929—1478	992—3525
930—1479	993—3717
931—2783	994—3310
932—1469	995—3312
933—1470	996—3313
934—1471	997—3314
935—521	998—3527
936—1468	999—3577

COMPARATIVE NUMBERS.

1000—3576	1062—3615
1001—3295	1063—3616
1002—3293	1064—3460
1003—3292	1065—3461
1004—3573	1066—3462
1005—3653	1067—3463
1006—3750	1068—3464
1007—3751	1069—3466
1008—3752	1070—3467
1009—3531	1071—3468
1010—3327	1072—3469
1011—3528	1073—3534
1012—3578	1074—3470
1013—3579	1075—3472
1014—3381	1076—3486
1015—3382	1077—3478
1016—3383	1078—3479
1017—3384	1079—3477
1018—3378	1080—3585
1019—3379	1081—3619
1020—3233	1082—3618
1021—3601	1083—3340
1022—3547	1084—3341
1023—2828	1085—3342
1024—3405	1086—3718
1025—3407	1087—3620
1026—3408	1088—3622
1027—3409	1089—3410
1028—3614	1090—3542
1029—3399	1091—3739
1030—3394	1092—3561
1031—3402	1093—3562
1032—3396	1094—3392
1033—3400	1095—3414
1034—3401	1096—3271
1035—3397	1097—3272
1036—3398	1098—3706
1037—3395	1099—3707
1038—3787	1100—3715
1039—3785	1101—3586
1040—3786	1102—3587
1041—3328	1103—3574
1042—3661	1104—3575
1043—3661	1105—3588
1044—3662	1106—3412
1045—3663	1107—3413
1046—3664	1108—3507
1047—3670	1109—3508
1048—3671	1110—3509
1049—3665	1111—3510
1050—3666	1112—3538
1051—3667	1113—3589
1052—3668	1114—3425, 3425a
1053—3659	1115—3775, 3778
1054—3732	1116—3777
1055—3581	1117—3480
1056—3582	1118—3783
1057—3580	1119—3533
1058—3444	1120—3630
1059—3445	1121—3693
1060—3329	1122—3393
1061—3330	1123—3511

COMPARATIVE NUMBERS.

1124—3159	1186—3229
1125—3164	1187—3230
1126—3161	1188—3231
1127—3162	1189—3236
1128—3163	1190—3232
1129—3160	1191—3234
1130—3165	1192—1613
1131—3166	1193—3216
1132—3139	1194—3221
1133—3140	1195—3248
1134—3141	1196—3217
1135—3142	1197—3218
1136—3143	1198—3243
1137—3144	1199—3244
1138—3173	1200—3245
1139—3173, 3189	1201—3136
1140—3194	1202—3253
1141—	1204—1243
1142—	1205—3202
1143—3145	1206—3203
1144—3175	1207—3204
1145—3175, 3177	1208—3199
1146—3176, 3177	1209—3200
1147—3179	1210—3201
1148—3180	1211—1238
1149—3178	1212—362a
1150—3176	1213—362b
1151—3182	1214—3135
1152—3184, 3185	1215—1621
1153—3181	1216—3148
1154—3186	1217—3149
1155—3214	1218—3150
1156—3184	1219—3152
1157—3187	1220—3153
1158—3188	1221—3155
1159—3137	1222—3157
1160—3191	1223—3158
1161—3192	1224—3151
1162—3193	1225—3196
1163—3212	1226—3154
1164—3213	1227—3197
1165—3167	1228—3198
1166—3168	1229—3247
1167—3169	1230—3208
1168—3170	1231—3209
1169—3171	1232—3210
1170—3172	1233—3211
1171—3146	1234—3257
1172—3147	1235—3258
1173—1203, 2809	1236—3259
1174—3134	1237—3256
1175—3222	1238—3240
1176—3223	1239—4985
1177—3130	1240—4986
1178—3131	1243—3265
1179—3132	1244—3266
1180—3190	1245—932, 933
1181—3260	1246—942
1182—3133	1247—946
1183—3235	1248—945
1184—3225	1249—940
1185—3227	1250—943

COMPARATIVE NUMBERS.

1251—1586	1314—1536
1252—939	1315—1537
1253—941, 1587	1316—1538
1254—935	1317—1539
1255—1003	1318—1540
1256—905	1319—1541
1257—910	1320—1542
1258—944	1321—1543
1259—944	1322—1544
1260—962	1323—1216
1261—962	1324—1559
1262—973	1325—1567
1263—974	1326—1568
1264—929	1327—1570
1265—983	1328—1571
1266—961	1329—1572
1267—903, 904	1330—1573
1268—949	1331—1574
1269—938	1332—1575
1270—915, 938	1334—1576
1271—992	1335—1577
1272—911	1336—1588
1273—985, 986	1337—1589
1274—986	1338—1582
1275—936	1339—1580
1276—984	1340—1581
1277—1453	1341—1584
1278—902	1342—1602
1280—899	1343—1604
1281—1503	1344—1605
1282—1504	1345—251a
1283—1508	1346—1593
1284—2062	1347—586
1285—1509	1348—1590
1286—1510	1349—1606
1287—1511	1350—1613
1288—1512	1351—1614
1289—1506	1352—1612
1290—1513	1353—1618
1291—1514	1354—1619
1292—1515	1355—1623
1293—1516	1356—1627
1294—1216, 1505	1357—1636
1295—1517	1358—1629
1296—1518	1359—1630
1297—1519	1360—1631
1298—1520	1361—1632
1299—1217, 1521	1362—1633
1300—1523	1363—1634
1301—1524	1364—1635
1302—1522	1365—1248
1303—1525	1366—1624
1304—1526	1367—1628
1305—1527	1368—1245
1306—1528	1369—1246
1307—1529	1370—1247
1308—1530	1371—1626
1309—1531	1372—1625
1310—1532	1373—1641
1311—1533	1374—16
1312—1534	1375—17
1313—1535	1376—3

COMPARATIVE NUMBERS.

1377—5	1439—74
1378—11	1440—77
1379—6	1441—75
1380—12	1442—70
1381—26	1443—78
1382—27	1444—79
1383—22	1445—80
1384—23	1446—71
1385—24	1447—72
1386—25	1448—102
1387—29	1449—103
1388—29, 282	1450—104
1389—18	1451—105
1390—283	1452—106
1391—283	1453—107
1392—283	1454—108
1393—19	1455—109
1394—20	1456—110
1395—21	1457—111
1396—42	1458—1.2
1397—43	1459—113
1398—44	1460—114
1399—36, 98	1461—115
1400—99	1462—116
1401—100	1463—167
1402—101	1464—117
1403—46	1465—118
1404—48, 97	1466—119
1405—49	1467—120
1406—45	1468—121
1407—47	1469—122
1408—62	1470—123
1409—61	1471—124
1410—63	1472—125
1411—63, 64	1473—126
1412—67	1474—128
1413—65	1475—129
1414—66	1476—171
1415—168	1478—130
1416—86	1479—4
1417—87	1480—7
1418—87	1481—8
1419—89	1482—9
1420—88	1483—131
1421—39	1484—132
1422—39, 1216	1485—133
1423—40	1486—134
1424—41	1487—135
1425—90	1488—145
1426—91	1489—146
1427—92	1490—154
1428—93	1491—155
1429—96	1492—82
1430—69	1493—81
1431—51	1494—2
1432—94	1495—165
1433—170	1496—95
1434—166	1497—156
1435—67	1498—59
1436—68	1499—60
1437—76	1500—59
1438—73	1501—157

COMPARATIVE NUMBERS.

1502—164	1564—1741
1503—83	1565—1742
1504—151, 4187	1566—1743
1505—84	1567—1744
1506—927	1568—1745
1507—158	1569—1746
1508—159	1570—1518
1509—160	1571—1747
1510—142	1572—1748
1511—127	1573—1754
1512—153	1574—286, 1755
1513—162	1575—1756
1514—163	1576—1757
1515—28	1577—1779
1516—30	1578—1780
1517—31	1579—1781
1518—32	1581—287, 1758
1519—33	1582—1759
1520—34	1583—1751
1521—35	1584—1789
1522—1	1585—1790
1523—161	1586—1792
1524—147	1587—1791
1525—148	1588—1763
1526—149	1589—1764
1527—150	1590—1765
1528—52	1591—1766
1529—53	1592—1933
1530—54	1593—1772
1531—55	1594—1769
1532—56	1595—1773, 2869
1533—57	1596—1767
1534—58	1597—1768
1535—85	1598—1795
1536—136	1599—1796
1537—137	1600—1797
1538—138	1601—1795
1539—139	1602—1775
1540—140	1603—1776
1541—141	1604—1777
1542—169	1605—1778
1543—143	1606—1760
1544—144	1607—1752
1545—912	1608—1753
1546—913	1609—1787
1547—914	1610—1788
1548—916	1611—1774
1549—917	1612—1785
1550—918	1613—1786
1551—919	1614—1761
1552—927	1615—1762
1553—928	1617—1782
1554—929	1618—1783
1555—930	1619—1784
1556—1735	1620—1749
1557—284	1621—1750
1558—285	1622—1771
1559—	1623—1800
1560—1736	1624—1801
1561—1737, 1738	1625—1802
1562—1739	1626—1803
1563—1740	1627—1804

COMPARATIVE NUMBERS.

1628—1806		1690—4674	
1629—1808		1691—4675	
1630—1808		1692—4676	
1631—1807		1696—4677	
1632—1805		1697—4682	
1633—1810		1698—2573	
1634—1822		1700—2584	
1635—1823		1701—2576	
1636—1811		1702—2574	
1637—1813		1703—2575	
1638—1814		1707—2595	
1639—1815		1708—2595	
1640—1816		1709—2595	
1641—1817		1710—2567	
1642—1818		1711—2568	
1643—1819		1712—2569	
1644—1825		1713—2570	
1645—1826		1717—2596.	3695
1646—1827		1718—4678	
1647—1828		1719—4679	
1648—1830		1720—4680	
1649—1820		1721—3637.	4681
1650—1821		1722—1937	
1651—1831,	3548	1723—1937,	1960
1652—3551		1726—1938	
1653—3549		1727—1939	
1654—3550		1728—1940	
1655—		1729—1941	
1656—1809		1730—1942	
1657—1812		1731—1939	
1658—3138		1732—1943	
1659—1824		1733—1946.	1956
1660—1216		1734—1937	
1661—1832		1735—1959	
1662—1833		1736—1958	
1663—1834		1737—2803	
1664—1835		1738—1953	
1665—1836		1739—1954	
1666—1837		1740—1955.	3545
1667—1838		1741—1950	
1668—1839		1742—1951	
1669—1840		1743—929	
1670—1870		1744—1962	
1671—1872		1745—1963	
1672—1873		1746—1966	
1673—1871		1747—1967	
1674—1876		1748—1968	
1675—1877		1749—1970	
1676—1874		1750—1964	
1677—1879		1751—1971	
1678—1880		1752—1965	
1679—1881		1753—1972	
1680—1882		1754—1973	
1681—1883		1755—1974	
1682—1884		1756—1975	
1683—1885		1757—1976	
1684—1886		1758—1977	
1685—1887		1759—3608.	3609
1686—1875		1760—3626	
1687—1878		1761—3628	
1688—4672		1762—1979	
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1767--1982	1830--2093
1768--1983	1831--2094
1769--1984	1832--2095
1770--1985	1833--2083
1772--1988	1834--2075
1773--1987	1835--2085
1774--1989	1836--2086
1775--1986	1837--2078
1776--1990	1838--2080
1777--1981	1839--2077
1778--1213	1840--2076
1779--1991	1841--
1780--1991	1842--2064
1781--1996	1843--2087
1782--2014	1844--2088
1783--1997	1845--2089
1784--2006	1846--2096
1785--2007	1847--2097
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1795--2011	1857--2107
1796--1978	1858--2108
1797--2004	1859--2109
1798--2005	1860--2110
1799--2032	1861--2111
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1802--2000	1865--874
1803--1999	1869--876, 2561
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1814--2067	1880--3529
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1823--2079	1889--250
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1904—2511	1977—2598
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1907—2516	1980—2562
1908—2514	1981—1007
1909—2515	1982—2564
1910—2798	1983—2600
1911—2498	1984—2601
1912—2499	1985—2631
1913—2500	1986—2632
1914—2501	1987—2633
1915—2502	1988—2603
1916—2799	1989—2604
1917—2503	1990—2605
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1938—2552	2005—2563
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2033—2726	2097—2853
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2042—2697	2106—3054
2043—2716	2107—3055
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2045—2708	2109—3050
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2051—2705	2115—
2052—2703	2116—3060
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2063—2692	2127—3072
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2065—3731	2129—3074
2066—2817	2130—3075
2067—2814	2131—3076
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2069—2814	2133—3078
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2076—2822	2139—3083
2077—2815	2140—3109
2078—2783	2141—3110
2079—2824	2142—3111
2080—2827	2143—3112
2081—2823	2144—3113
2082—	2145—3114
2083—2829	2146—3088
2084—2833	2147—3089
2085—2830	2148—3096
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2159—3105	2284—218
2160—3106	2285—219
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2163—10	2290—4918
2164—13	2291—4919
2165—5	2292—4920
2166—14	2293—4921
2167—15	2294—3842
2168—3115	2296—3848
2169—29	2297—3849
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2185—3880	2313—3692
2202—2464	2314—4818, 4824
2207—3907	2315—4824
2208—3888	2316—4823
2214—3798	2317—2998
2215—3799	2318—3294
2216—3800	2325—3301
2217—3801	2326—2639
2218—3802	2327—3700
2219—3802	2328—3700
2220—3803	2330—3700
2221—3804	2331—3868
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2223—3807	2333—3870
2224—3808	2334—3871
2225—3809	2335—3872
2226—3810	2336—3874
2227—4091, 4428	2337—3875
2228—4092	2338—3873
2229—4093	2339—3876
2230—4094	2340—3876
2231—4095	2341—3522, 3876
2232—4097	2342—3877
2233—4098	2343—3878
2234—4099	2344—3878
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2237—4102	2483—3281
2238—4103	2484—3290
2239—4104	2485—1666
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2492—	2643—4181
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2494—3657	2645—4183
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2496—1643	2647—4185
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2527—3951	2767—1693
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2529—3953	2769—1699, 1700, 1701, 1702,
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2592—3772	2771—1697
2610—4164	2772—1685
2611—4165	2773—1694
2612—4169	2774—1704
2613—4168	2775—1688
2614—4166	2776—1689
2615—4167	2777—1710
2616—4173	2778—1706
2617—4170	2779—1707
2618—4173	2780—1708
2619—4174	2781—1718
2620—4172	2782—1723
2621—4173	2783—1722
2622—4176	2784—1715
2623—4177	2785—1716
2624—4171	2786—1725
2625—4172	2787—1726
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2803—1650	2867—4322
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2809—1647	2873—2740
2810—1647	2874—4308
2811—3296	2875—4331
2812—1656	2876—4333
2813—1657	2877—4332
2814—1658	2878—4336
2815—1660	2881—4336
2816—1663	2882—4343
2817—1664	2883—4394
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2821—1662	2896—4403
2822—1665	2897—4407
2823—1667	2898—4404
2824—1669	2899—4406
2825—1670	2900—4405
2826—1661	2901—4400
2827—3300	2902—4402
2828—3299	2903—4424
2829—3298	2904—4399
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2837—3430, 3775	2910—4421
2838—3775	2911—4421
2839—2429	2912—4412
2840—3437	2913—4413
2841—1671	2914—4415
2842—1671	2916—4408
2843—1672	2917—4398
2844—4301.	2918—4409
2845—4302	2919—4410
2846—4306	2920—4411
2847—4304	2921—4414
2848—4305	2923—4513
2849—4307	2924—4513
2850—4309	2925—4520
2851—4310	2926—4516
2852—3526	2927—4514, 4517
2853—4314	2928—4522
2854—3636	2929—4519
2855—4303	2930—4523
2856—4315	2931—4515
2857—3565	2932—4525
2858—4317	2933—4525
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2940—2667, 2668	3097—2527
2941—2668	3098—2528
2942—1910	3099—2529
2943—1910	3100—2530
2944—1910	3101—2531
2945—1911	3102—2532
2946—1911	3103—2533
2947—1912	3104—2534
2948—1914	3105—2535
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2950—1913	3108—2537
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2956—1904	3121—4377
2957—1905	3122—4388
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2959—1906	3124—4384
2960—1909	3125—4385
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2962—1907	3127—4381
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2964—1919, 3566	3129—4386
2965—1918	3130—4387
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2967—1894	3132—3595
2968—1895	3133—4389
2969—1895	3134—4383
2970—1896	3135—4367
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2972—1898	3137—4371
2973—1899	3138—4369
2974—1922	3139—4370
2975—1923	3140—4374
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2979—1926	3144—3599a
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2982—2684	3148—4364
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3080—5033	3151—4363
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3304—2357	3380—2472
3305—2358	3381—2441
3306—2359	3382—2454
3307—2360	3383—2446
3308—2805	3384—2465
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